

# Town of Bakersfield

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## ZONING AND SUBDIVISION BYLAW

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## **SECTION 1 AUTHORITY AND PURPOSE**

### **1.1 STATUTORY AUTHORIZATION AND ENACTMENT**

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

### **1.2 SEVERABILITY**

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

### **1.3 GENERAL PURPOSE**

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

### **1.4 APPLICABILITY**

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

### **1.5 INTERPRETATION**

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

### **1.6 COMPUTATION OF TIME**

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

### **1.7 LIMITATIONS**

#### **A. Limitations on Local Zoning**

1. The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that

regulations do not have the effect of interfering with the intended functional use (24 V.S.A. §4413a):

- State- or community-owned and operated institutions and facilities;
- Public and private schools and other educational institutions certified by the state 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 V.S.A. Chapter 159;
- Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.

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

#### **B. State Exemptions**

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

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

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

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

b) A person shall notify the Zoning Administrator in writing of the intent to build a farm structure and shall provide a site plan. The structure shall abide by setbacks approved by the Secretary of Agriculture, Food and Markets. No municipal permit for a farm structure shall be required.



3. Hunting, fishing or trapping on public or private land as specified by the state [under 24 V.S.A. §2295]. This excludes facilities that may support such activities, such as firing ranges, rod and gun clubs, and fish and game clubs, which are subject to this Bylaw.

**C. Local Exemptions**

A zoning permit shall not be required to relocate, place or construct a detached structure less than 100 square feet and less than 35ft tall, unless located in the flood hazard overlay district (See Section 10).

**TABLE 1.1  
MUNICIPAL PERMITS AND APPROVALS: TOWN OF BAKERSFIELD**

<b>Permit/Approval</b>	<b>Required for</b>	<b>Issued by</b>	<b>See</b>
<b>Zoning Permit</b>	All land development as defined in Section 11, including signs, accessory structures, conversions and changes of use unless specifically exempted from these regulations under section 1.7.	Zoning Administrator	Section 4.1
<b>Site Plan Approval</b>	All uses identified as requiring site plan review in Table 2.	Planning Commission	Section 4.3
<b>Conditional Use Approval</b>	All uses classified as conditional uses in certain zoning districts in Table 2 and nonconformities under Section 5.6.	Board of Adjustment	Section 4.4
<b>Variance Approval</b>	Requests for a variance from the provisions of these regulations.	Board of Adjustment	Section 4.5
<b>Flood Hazard Area Development Approval</b>	Requests for land development in the Flood Hazard Overlay District.	Board of Adjustment	Section 10
<b>Planned Unit Development (PUD) Approval</b>	All planned unit developments, as defined in Section 11.	Planning Commission	Section 9
<b>Certificate of Occupancy</b>	Use of a dwelling or structure constructed after the effective date of these regulations for which a zoning permit has been issued.	Zoning Administrator	Section 2.6
<b>Subdivision Approval</b>	All land subdivisions as defined in Section 11, including boundary line adjustments.	Planning Commission	Section 7
Sketch Plan Approval	All applications for subdivision approval.	Planning Commission	Section 7.5
Preliminary Plan Approval	All applications for major subdivisions (creating 3 or more lots)	Planning Commission	Section 7.6
Final Plan Approval	All applications for subdivision approval.	Planning Commission	Section 7.7
Plat Recording	All approved subdivisions of land, including boundary line adjustments.	Planning Commission	Section 7.9
<b>Access by Right-of-Way Approval</b>	Development on or access to lots without frontage on a maintained public road or public waters.	Planning Commission	Section 5.3
<b>Road Access Permit</b>	Installation of a drive intersection with a Town or State road, or a right-of-way.	Town Road Commissioner	Bakersfield Town Road Ordinance

## **SECTION 2 ADMINISTRATION & ENFORCEMENT**

### **2.1 ADMINISTRATION**

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

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

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

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

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

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

The duties of the Planning Commission include:

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

- Resolve any uncertainties on the Zoning Map.

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

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

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

## **2.2 FEES**

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

## **2.3 PUBLIC NOTICE REQUIREMENTS**

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

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

4. written notification to the clerk of the adjoining municipality for hearings on subdivision plats located within 500 feet of a town boundary.

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

1. posting of the date, place and purpose of the hearing in three (3) or more public places within the municipality; and
2. written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

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

## **2.4 ISSUANCE OF ZONING PERMITS**

### **A. Permits Issued by Zoning Administrator**

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

1. When the Zoning Administrator issues a zoning permit, the applicant shall post a permit notice, on a form provided by the Town of Bakersfield, within view of the public right-of-way most nearly adjacent to the subject property until the applicable time for appeal has passed (see Section 2.7). The notice shall contain a statement of the appeal period and information noting where a full description of the project and approval can be found.
2. Within three (3) days following the issuance of a zoning permit, the Zoning Administrator shall post a copy of the permit in the Town Clerk's Office until the expiration of the appeal period.

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

**B. Decisions Issued by Planning Commission and Board of Adjustment.**

The Planning Commission and/or Board of Adjustment shall prepare a written decision for all land development applications referred from the Zoning Administrator within 45 days after the adjournment of the public hearing. The Zoning Administrator shall send the Board's decision, in addition to a permit or denial in accordance with the Board's decision, to the applicant or appellant by certified mail. Copies of each decision shall also be mailed to every person or body both appearing and having been heard at the hearing, be recorded in the municipal land records, and a copy maintained on file in the town clerk's office in accordance with the Act. Failure to issue a decision within the 45-day period shall result in deemed approval. In addition:

1. All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on recorded evidence. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals under Section 9.3 may be taken. The minutes of a meeting may suffice, provided that the factual basis and conclusions relating to the review standards are provided in accordance with these requirements.

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

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

**C. Zoning Permit Effective Date.**

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

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

**D. Recording Requirements**

Within 30 days after the issuance of a zoning permit or notice of violation, the Zoning Administrator shall deliver either the original, a legible copy, or a notice of the permit or

violation to the Town Clerk for recording in the municipal land records as provided in 24 V.S.A. 1154(a). The applicant may be charged the cost of the recording fees as required by law.

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

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

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

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

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

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

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

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

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

#### **F. Review Under Pending Amendment to these Regulations.**

In accordance with 24 VSA §4449(d), once the Bakersfield Selectboard has issued a public notice to amend these regulations, the Zoning Administrator shall review any new application

under both the proposed amendment and applicable existing regulations. If the new bylaw or amendment has not been adopted or rejected within 150 days of that notice or, if the bylaw is rejected, the application shall be reviewed under the existing regulations. An application that has been denied under a proposed bylaw or amendment that has not been adopted, or had been rejected, shall be reviewed again at no cost under the existing regulations at the request of the applicant.

## **2.5 ROAD ACCESS PERMIT**

It shall be unlawful to use or occupy, or permit the use or occupancy of, any premises for which a Road Access Permit is not approved. A road access permit, that has been signed and approved by the Road Commissioner, shall be required as part of a complete zoning permit application. Access to the property must meet the standards set forth by the Selectboard and approved by the Road Commissioner.

## **2.6 CERTIFICATE OF OCCUPANCY**

It shall be unlawful to use or occupy or permit the use or occupancy of any premises for which a Certificate of Occupancy has not been issued.

A Certificate of Occupancy shall be issued only if:

1. A Wastewater and Potable Water Supply permit, or proof of exemption has been issued and filed in the town land records for structures which will generate wastewater, see Section 5.15.
2. The Zoning Administrator has inspected the premises to ensure that all work has been completed in conformance with the zoning permit and associated approvals, including all permit conditions.
3. An e-911 number has been issued by the Town Clerk's Office.

## **2.7 APPEALS**

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

1. A notice of appeal filed under this section shall include the following information in accordance with § 4466 of the Act:
  - a) the name and address of the appellant;
  - b) a brief description of the property with respect to which the appeal is taken;
  - c) a reference to the applicable provisions of these regulations;
  - d) the relief requested by the appellant, including any request for a variance from one or more provisions of these regulations; and
  - e) the alleged grounds why such relief is believed proper under the circumstances.



2. The Board of Adjustment shall set a date, time, and place for a public hearing on an appeal which shall be within 60 days of filing of the notice of appeal according to § 4465 of the Act. The secretary of the Board of Adjustment shall give public notice of the hearings not less than 15 days prior to the hearing date in accordance with Section 2.3 of this Bylaw.
3. In accordance with the Act, § 4464(b), upon completion of a hearing, the Board shall render a written decision within forty-five (45) days. Failure to render a decision within the required time period shall be deemed approval. Copies of the decision shall be sent to:
  - a) the applicant (by certified mail);
  - b) the appellant (by certified mail);
  - c) Every person or party who appeared and was heard at the hearing;
  - d) the Zoning Administrator; and
  - e) the Town Clerk for filing as part of the public records of the Town.

**B. Appealing Decisions of the Planning Commission or Board of Adjustment.**

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

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

- a) certified mail, with fees, to the Environmental Court;
- b) mailing a copy to the Town Clerk, who shall provide a list of interested persons to the appellant within 5 working days;
- c) Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person.

**2.8 VIOLATIONS AND ENFORCEMENT**

**A. Violations.** The commencement or continuation of any land development, subdivision, or use, which is not in conformance with this Bylaw, is a violation. Any person who is found in violation of these regulations shall be fined not more than the amount permitted under the Act § 4451. Each day that a violation is continued shall be a separate offense. All fines imposed and collected shall be paid to the Town of Bakersfield.

**1. Enforcement Remedies.** In accordance with the Act § 4452, if any street, building, structure or land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained, or used in violation of these regulations, the Administrative officer (Zoning Administrator) shall institute in the name of the Town any appropriate action, injunction or other proceeding to prevent, restrain, correct, or abate such construction or use, or to prevent, in or about such premises, any act, conduct, business, or use constituting a violation. A court injunction may be initiated in the Environmental Court, or as appropriate before the judicial bureau, as provided under the Act § 1974a.

**2. Notice of Violation.** No action may be brought under this section unless the alleged offender has had at least seven days warning notice by certified mail. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation of the bylaw or ordinance after the seven day notice period and within the next succeeding 12 months. The seven-day warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days.

**B. Misrepresentations.**

1. Any applicant, or his/her agents, who grossly misrepresents facts pertaining to their application or who files a false application or false evidence shall have that application rejected.

2. Written notice of alleged gross, or consistent, misrepresentation of facts or incompetence by an attorney, professional engineer, land surveyor, site technician or other professional person who misrepresents facts pertaining to a client's property or who submits erroneous plats, soil surveys, evidence, etc., shall be sent to the person so charged and to State of Vermont Licensing Authorities by registered mail, return receipt requested, and shall request the suspension of the accused person's right to practice in matters addressed by this Bylaw within the Town of Bakersfield for a period of two years.

**C. Filing a Complaint.** Whenever a violation of these regulations occurs, or is alleged to have occurred, any person may file a written complaint with the Zoning Administrator. The complaint shall state fully the causes and basis for the alleged violation. The Zoning Administrator shall properly record such a complaint, investigate, and take action as appropriate in accordance with these regulations.

**D. Limitations on Enforcement.** Bakersfield shall observe the 15 year limitation on enforcement proceedings relating to municipal permits and approvals as set forth in the Act [§ 4454].

## **SECTION 3 ZONING DISTRICTS AND DISTRICT REGULATIONS**

### **3.1 ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL ZONING MAP**

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

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

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

### **3.2 INTERPRETATION OF ZONING DISTRICT BOUNDARIES**

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

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

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

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

D. When the Zoning Administrator cannot definitely determine the location of a district boundary line by the above rules or by the scale or dimensions on the Official Zoning Map, the Planning Commission shall interpret the boundaries.

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

1. When subdividing the lot, each newly created parcel must meet the dimensional requirements for the district in which it is located unless it is part of a planned unit development. If a newly created parcel lies in two districts, the more restrictive dimensional standards shall apply.

2. The permitted and conditional use restrictions for the district in which the use is to occur shall control, and if the use is to occur in both districts, it must conform to the restrictions of both.
3. When building a structure, the minimum frontage and setback requirements for the district in which the structure is to be located shall control, and if the structure is to be in both districts, the smaller requirement shall control.

### **3.3 ZONING DISTRICT PURPOSES AND SUPPLEMENTAL STANDARDS**

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

#### **A. Village Center District**

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

#### **B. High Density Residential District**

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

#### **C. Rural District**

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

#### **Supplemental Standards for Heron Rookery**

In order to protect the Heron Rookery shown on the Official Zoning Map, development is restricted within 200 meters from the high water line of the associated wetland. The Vermont Department of Fish and Wildlife is to be notified in writing if any development is proposed near to the outer zone.

#### **D. Conservation District**

**Purpose:** This district is designated to protect the natural resources and scenic value of mainly forested lands that lack direct access to public roads, are important for wildlife and wildlife habitat, and which are poorly suited for development. Included are areas of high elevation, steep slopes and swamplands. Concern must be given to building on any

slope greater than 15% because the soils in these areas tend to be thin and unstable, making them unsuitable for development. The Conservation District includes the watershed that provides Bakersfield's municipal water supply and land uses that might reduce the water quality in this area are restricted. Only limited, low-density development is to be permitted in this district.

### **Supplemental Standards**

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

## **E. Aquifer Overlay District**

**Purpose:** The purpose of the Aquifer Overlay District is to protect the public health and safety by preserving and maintaining the community water source from incompatible development. No new construction is permitted within the Aquifer Overlay District.

### **Supplemental Standards**

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

- New principal structures
- Any use not permitted in the underlying zoning district
- Sanitary landfills and other solid waste disposal facilities
- Waste handling and storage facilities or salvage yards
- Underground fuel storage tanks
- Storage for resale of heating fuels, including, but not limited to oil, coal, and gas
- Mining of land, removal of sand and gravel, and quarrying of raw materials
- Open storage of road salt or other de-icing materials
- Disposal of snow that has been brought in from outside the district
- Gasoline stations, car washes, auto repair or auto body shops
- Dry cleaning establishments and laundromats
- Chemical, medical and bacteriological laboratories or manufacturing facilities
- Manufacturing facilities which produce any of the following: electrical equipment, pharmaceutical products, plastic, fiberglass, rubber goods or textiles
- Food processing, photographic processing or wood processing facilities
- Printers
- Furniture strippers
- Machine shops
- Commercial feeding of livestock, liquid manure pits.
- Any use which involves the generation, storage, use, treatment, transportation or disposal of hazardous materials
- Commercial Water Extraction

**B.** Existing principal structures within the Aquifer Overlay district shall be treated as conforming structures.

## **F. Flood Hazard Overlay District**

**Purpose:** The purpose of the Flood Hazard Overlay District is to minimize and prevent the loss of life and property, the disruption of commerce, and the extraordinary costs that result from flooding and other flood-related hazards. Within this district, the design and construction of development should be accomplished in a manner that minimizes or

eliminates the potential for flooding and loss or damage to life and property. Uses in the flood hazards areas shall be restricted to agriculture, conservation and outdoor recreation.

**Supplemental Standards**

See Section 10.

**3.4 ZONING DISTRICT USES AND DIMENSIONAL STANDARDS**

- A. All uses and structures must meet the district dimensional requirements and all other applicable provisions of this Bylaw except as authorized by a variance or by approval of a planned unit development.
- B. Table 3.1 lists uses and structures for each district, which may be permitted (P), permitted with site plan approval (P/S), conditionally permitted (C), conditionally permitted with site plan approval (C/S), or prohibited (X). Procedures for review are found in Section 4.
- C. The supplemental standards imposed by the Aquifer Overlay District and Flood Hazard Overlay District are in addition to the requirements of the underlying district.
- D. Mixed use development involving more than one use within a single building or in multiple buildings on a single lot shall be subject to conditional use review in accordance with Section 4.4 and the following provisions:
  - 1. Each of the proposed uses is otherwise allowed as a permitted or conditional use in the district in which the mixed use is proposed.
  - 2. The combined uses meet all applicable standards for the district in which the mixed use is proposed, including setbacks and frontage, and minimum lot size (unless such standards are modified as part of a planned unit development).
  - 3. The mixed use meets all applicable general regulations and use provisions contained in Articles 5 and 6.
- E. Uses not specifically listed in Table 3.1 shall be considered prohibited unless such use is approved by the Board of Adjustment as a Conditional Use in accordance with the following:
  - 1. The Board of Adjustment must find that the use is of the same general character as those permitted or allowed as conditional uses in the area in which the use is proposed. The burden of proof to show that the proposed use is of the same general character as allowed uses in the area shall be on the applicant.
  - 2. In reaching its decision, the Board of Adjustment must hold a public hearing after public notice, and send notice to the Planning Commission 15 days in advance of the hearing. The Planning Commission may submit written or oral recommendations to the Board of Adjustment relative to the acceptability of the proposed use. The Board of Adjustment will determine the minimum lot size, setbacks, lot frontage and other requirements for the use based on the area regulations and requirements for similar uses. In no case will the minimum lot size, setback or frontage be less than the minimum otherwise required in the district.

**Table 3.1. Dimensional Standards and Uses by Zoning District**

<b>Dimensional Standards</b>					
	<b>Village Center</b>	<b>High Density Residential</b>	<b>Rural</b>	<b>Conservation</b>	
Minimum Lot Size (acres)	0.5	1	10	25	
Min. Frontage (ft)	100	125	275	400	
Max Setback from Road (ft. measured from center line of road)	n/a	n/a	n/a	600	
Min Setback from Road (ft. measured from center line of road)	50	50	50	50	
Min. Setback/Yard (ft)	15	15	30	30	
Min. Stream Setback (ft)	100	100	100	100	
<b>Allowed Uses</b>					
	“P”-Permitted Use; “C”-Conditional Use; “S”-Site Plan Review; "X"-Prohibited				
	<b>Village Center</b>	<b>High Density Residential</b>	<b>Rural</b>	<b>Conservation</b>	<b>Please refer to:</b>
<b>Residential Uses</b>					
Accessory Use/Structure	P	P	P	P	
Accessory Dwellings	P	P	P	P	Section 6.2
Camps	X	X	P	P	for conversion of camps to year-round dwellings, see Section 6.3
Child Care Home (10 or fewer children)	P	P	P	P	Section 6.5
Congregate Housing	P/S	P/S	X	X	
Group Home or Residential Care Home	P	P	P	P	
Mobile Home Park	X	C/S	C/S	X	Section 6.8
Multi-Family Dwelling	C	C	C	X	
Single Family Dwelling	P	P	P	P	
Two-Family Dwelling	P	P	P	P	

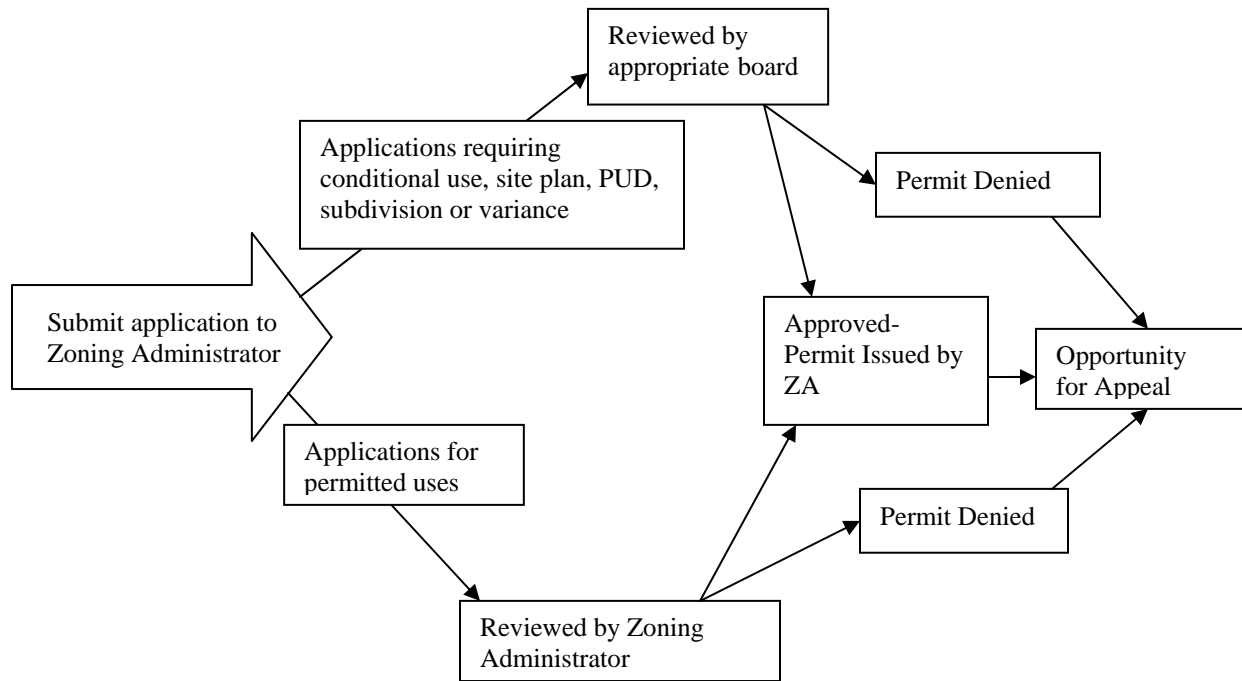
	Village Center	High Density Residential	Rural	Conservation	Please refer to:
<b>Non-Residential Uses</b>					
Bed and Breakfast	P/S	P/S	C/S	C/S	
Business Services	P/S	C	C	X	
Campgrounds	X	C	C	C	Section 6.4
Child Care Facility	P/S	P/S	C	X	
Commercial Water Extraction	X	C	C	X	
Essential Public Services and Facilities	P/S	P/S	P/S	P/S	Section 1.7
Excavation & Earth Resource Extraction	X	C	C	X	Section 6.7
Home Occupation	P	P	P	P	Section 6.6
Hotels/Motels	C	C	C	X	
Indoor Recreation Facilities	C	C	C	X	
Light Industry	C	C	C	X	
Motor Vehicle & Equipment, Sales and Service	C	C	C	X	
Non-Profit Club	C	C	C	X	
Outdoor Recreation Facilities	C	C	C	C	
Place of Worship	P/S	P/S	P/S	P/S	
Restaurant	P/S	C	C	X	
Retail Establishments	C	C	C	X	
Rooming/Boarding House	C	C	C	X	
Telecommunications Facilities	C	C	C	C	
Social Services	C	C	C	X	
Waste handling and storage facilities	X	C	C	X	
Wind Energy Conversion Systems	C	C	C	C	Section 6.9



**SECTION 4 PERMIT REVIEW PROCEDURES AND STANDARDS**

**4.1 PERMITTING PROCESS**

No land development, as defined in Section 11 shall commence in the Town of Bakersfield without a zoning permit issued by the Zoning Administrator unless specifically exempted in Section 1.7. Where conditional use approval, site plan approval, a variance or flood hazard area development approval is required, such approval is required prior to issuance of a zoning permit.



*Figure 4.1 The development review process in Bakersfield.*

**4.2 APPLICATION REQUIREMENTS**

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

**TABLE 4.1 APPLICATION REQUIREMENTS**

**Requirements for *all* land development applications:**

Name and address of the owner(s) of record.

A statement of the existing and intended use of land and structures

A list of names of most recent mailing addresses of all abutting property owners, without regard to public rights of way (ie, properties across the street are considered to be abutting).

Information regarding any potential for odor, noise, smoke, dust, dirt, noxious gas, glare, fire, or explosion during the construction of the development or the proposed use of the land.

One (1) original and one (1) complete copy of a site plan, drawn to scale, with north arrow and date of preparation. *(If requested by the planning commission, site plans shall be prepared by a licensed engineer, surveyor, or architect, the name of which shall be noted on the map along with map scale, north arrow, and date of preparation)*

**Each site plan shall show the following information in sufficient detail to determine whether the proposal is in conformance with these Regulations:**

General site location in relation to public roads and nearest intersection.

-Boundaries and areas of all contiguous land of the land of record.

Dimensions of the lot and lot acreage, including legal property boundaries.

Zoning district boundaries.

-Location, footprint, and height of existing and proposed structures, additions, and land use areas.

Location of existing and proposed easements, rights-of-way, sidewalks, and utilities.

Location of major site features, including surface waters, wetlands, floodplains, rock outcroppings, and stands of trees.

Setbacks from property boundaries, rights-of-way, surface waters, and wetlands.

Where locations of property lines, roads, buildings, or other required information is in doubt, a land survey may be required.

-Any other information that may be needed to determine compliance with these regulations.

**Additional site plan requirements for land development requiring conditional use and/or site plan review:**

- The lot, block, and section number of the property from the most recent municipal tax record.

- The location of all major vegetation and natural features on the site.

- Location and dimension of parking areas, loading and unloading facilities, points of ingress and egress of vehicles to and from the site to public streets, and pedestrian rights-of-way.

- Location, height, and lumens of outdoor lighting.

**TABLE 4.1 APPLICATION REQUIREMENTS**

- Topography indicating contours at intervals of not more than 50 feet.			
- Soil types.			
- Existing and proposed landscaping and screening.			
- The location of all proposed site grading and excavation.			
<b>In addition, each zoning application shall include the following, as applicable:</b>	<b>Site Plan Review</b>	<b>Conditional Use Review</b>	<b>Variance Requests</b>
Construction sequence and time schedule for completion of each phase of development	✓	✓	
Plans for onsite erosion control during construction	✓		
Detailed specifications of planting and landscaping materials to be used, and a plan for long term maintenance and replacement of plantings.	✓		
Cost estimates of all site improvements.	✓		
Statement of how the proposed development fits the purposes of the zoning district in which it is located.		✓	
Expected impact on existing and planned community facilities		✓	
Estimated daily and peak traffic generation		✓	
A statement describing the variance requested from one or more provisions of these Regulations and the alleged grounds why such relief is believed proper under the circumstances based on the five (5) statutory criteria listed in Section 4.4 and § 4449 of the Act.			✓
Any other information which the Planning Commission or Board of Adjustment requires to ensure that the provisions of these regulations are met.	✓	✓	✓

**B. Waivers of Application Requirements.** The application shall not be considered complete by the appropriate Board until all application materials have been submitted. The appropriate Board may waive one or more of the listed items in the event they determine the items to be unnecessary for the comprehensive review of the application. Such waiver shall be issued in writing when the application is accepted and deemed complete by the Board.

**C. Bonding.** The appropriate Board may require a performance bond or other form of security of up to the value of the cost of the improvement to ensure that the project is constructed and maintained in compliance with the permit and these regulations. The amount and form of such surety shall be subject to the approval of the Bakersfield Selectboard prior to final approval from the appropriate Board.

**4.3 SITE PLAN REVIEW**

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

In any district, no permit shall be issued by the Zoning Administrator for uses requiring site plan approval as listed in Table 3.1 until that approval is granted by the Planning Commission.

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

- Adequacy of parking
- Traffic access
- Pedestrian and bicycle access requirements
- Adequacy of landscaping and screening
- Protection and utilization of renewable energy resources
- Exterior lighting
- Size, location and design of signs
- Adequate stormwater management and erosion control measures
- Noise
- Character of the surrounding area.

**B. District and Specific Use Standards:** In addition to the site plan standards above, a proposal must meet the district dimensional standards identified in Section 3 and, as applicable, the specific use standards under Section 6 of this Bylaw.

#### **4.4 CONDITIONAL USE REVIEW**

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

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

- 1) *The capacity of existing or planned community facilities.* The Board shall consider demand for community services and facilities that will result from the proposed development and determine whether that demand will exceed the capacity of existing facilities or services (such as school capacity, emergency services, recreation fields, etc.). Conditions may be imposed regarding the timing and phasing of development to minimize the impact on community facilities and services, including requiring the applicant to contribute funds and/or physical improvements toward the provision of new or expanded facilities to mitigate the impacts of the proposed development.
- 2) *The character of the area affected as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the Town Plan.* The Board shall consider the design, location, scale, and intensity of the proposed development and/or use, relative to the surrounding area. For the purposes of conditional use review, “surrounding area” is defined as that area likely to be affected by the proposed use, including but not limited to properties within sight or sound of the proposed conditional use. ‘Character of the area’ refers to the distinctive traits, qualities, attributes, appearances, pattern of use, sense of community and factors that define its identity. The existence of one conditional use in a district will not necessarily be interpreted as justification for another similar conditional use to be

located there. When considering the impact of a proposed conditional use on the character of the area affected, the Board shall consider the proposal's compatibility with the purpose and character of the affected zoning district as defined in Section 3 of this Bylaw, the Town Plan, and the testimony of the interested parties.

- 3) *Traffic on roads and highways in the vicinity.* The Board shall consider the projected impact of traffic resulting from the proposed development on the capacity, safety, efficiency, and use of affected public roads, bridges, and intersections. The Board will rely on accepted transportation standards, in evaluating traffic impacts, and shall not approve a project that would result in the creation of unsafe conditions for pedestrians or motorists, or unacceptable levels of service for local roads, highways, and intersections. The Board shall consider the projected impact of traffic resulting from the proposed development on the capacity, safety, efficiency, and use of affected public roads, bridges, and intersections (for example - a reduction in existing level of service below "C").
- 4) *Bylaws or ordinances now in effect.* Proposed conditional uses must conform to all municipal bylaws and regulations in effect at the time of submission of the application, including conformance with the policies of the Bakersfield Town Plan and compliance with conditions of prior permits or approvals, including subdivision approval.
- 5) *Utilization of renewable energy resources.* The Board will consider whether the proposed development will interfere with the sustainable use of renewable energy resources by diminishing the future availability of such resources or by eliminating nearby property owners' access to such resources.

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

- Increased or decreased lot size or yard dimensions (resulting lots must still meet minimum district standards)
- Limitations on the coverage or height of buildings because of obstructions to view, the reduction of light and air to adjacent property, or to prevent adverse impacts to water quality or other identified natural features
- Limitations on the location and number of vehicular access points to the property
- Increased or decreased street width requirements or other modifications to street design to ensure vehicular and pedestrian safety
- Limitations on the hours of operation or levels of daily truck traffic permissible
- Requiring measures to minimize the adverse effects of land alterations on soil erosion, water quality, and scenic beauty as may be recommended by the County Forester, Natural Resource Conservation Service, district highway engineer, or other experts
- Requirements for suitable landscaping where necessary to reduce noise and glare and to maintain the property in keeping with the surrounding area
- Specifying a time limit for construction of improvements to land or structures, including conditions to phase residential developments to minimize the impact on schools and other community facilities and services
- Requiring a performance bond from the applicant to ensure that the project is constructed and maintained in compliance with the permit and these regulations
- Any additional conditions and safeguards that the Board of Adjustment deems necessary to implement the purposes of the Act, the Town Plan, or these zoning regulations.

#### **4.5 VARIANCE REVIEW**

An applicant may apply for a variance from the provisions of these regulations from the Board of Adjustment for any structure. Renewable energy structures are reviewed under separate criteria than general structures.

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

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

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

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

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

## **SECTION 5 GENERAL REGULATIONS**

### **5.1 ABANDONED STRUCTURES**

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

### **5.2 DESTROYED OR DAMAGED STRUCTURES**

Within one (1) year after any structure, or development, has been destroyed or damaged by fire, or other cause, or if active work on an uncompleted construction project has not occurred in such period and the Health Officer determines that the structure, or development, constitutes a health or safety hazard, the owner shall either:

- a) Remove all ruins and structural materials and restore the site to a smooth grade, or
- b) Reconstruct, repair or resume construction of the structure. Reconstruction of a destroyed structure shall require a zoning permit. Provided that the application for reconstruction is submitted within 1 year of the date of loss and that the new structure will be within the same footprint and of the same height as the previous structure, the Zoning Administrator shall approve the application. Otherwise, a full application and all applicable approvals will be required.

If the owner fails to correct or remove the health or safety hazard, the Selectboard may order removal or correction of the hazard and place a lien on the property for all associated costs.

### **5.3 ACCESS TO LOTS**

To assure appropriate development of lands in a manner that will promote the public health, safety against fire and other dangers, and accessibility by emergency vehicles, whether for fire, police, or emergency medical services, the following regulations will apply to development on rights-of-way.

Land development may be permitted on lots which do not have either frontage on a Class 1, 2, or 3 public road, with the approval of the Planning Commission, if the lot meets the following requirements:

**A. Development of one or two lots.** Access to a Class 1, 2, or 3 public road shall be provided by a permanent easement or right-of-way at least fifty (50) feet wide. A driveway shall be built to access the lots in accordance with the town road ordinance standards and shall include space sufficient for a fire truck to turn around. The construction of a road or driveway is not required to access a camp.

**B. Development of more than two lots:** Access to a Class 1, 2, or 3 public road shall be provided by a permanent easement or right-of-way at least fifty (50) feet wide. A road shall be built in accordance with Section 8.3 and the town road ordinance standards. In addition:

1. All rights-of-way must be inspected and approved by the Road Commissioner before building on any lots may occur.
2. Access by emergency vehicles must be possible at all times.
3. These regulations shall apply to those portions of rights-of-way within the limits of Bakersfield that are accessed from roads outside the boundaries of Bakersfield.
4. These conditions must be deeded to all lots created, including any the land retained by the subdivider, if accessed by the right-of-way at the time the subdivision is approved.

#### **5.4 EXISTING SMALL LOTS**

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

#### **5.5 FIXED AREA ALLOCATION FOR PRESERVATION OF LAND WITHIN THE RURAL AND CONSERVATION DISTRICTS**

Within the rural and conservation zoning districts, these regulations have the intent of preserving farmland and forests, while permitting limited subdivision. They limit the amount of land that can be subdivided and developed in order to protect agriculture, forests and natural resources.

- A. A lot of not less than 2 acres may be created provided it meets the following requirements:
  1. The remaining lot from which the parcel has been subdivided must meet the minimum acreage requirement of the zoning district.
  2. It cannot be created from a lot that has been subdivided in the last five years.
  3. Both lots must meet the minimum frontage requirements for the zoning district.
  4. An easement or deed restriction shall be in place prohibiting further subdivision of the larger parcel for a period of at least ten years.

#### **5.6 GEOPHYSICAL TESTING**

Geophysical testing along public roads shall require a permit from the Road Commissioner and the Selectboard that shall be issued only after the holding of a properly warned public hearing.

#### **5.7 HEIGHT LIMITATIONS**

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

#### **5.8 NONCONFORMITIES**

This section shall apply to any structures and uses existing on the effective date of this Bylaw that do not conform to the requirements set forth in this Bylaw.

- A. Any non-conforming use of a structure or of land may be continued indefinitely except that a non-conforming use shall not be reestablished after being discontinued for a period of five



years, or after being changed to, or replaced by, a conforming use for any length of time. Intent to resume a non-conforming use shall not confer the right to do so.

B. No provision of this Bylaw shall prevent the normal maintenance and repair of a non-conforming structure provided that such action does not increase the degree of noncompliance. However, in the event that a non-conforming structure is destroyed by a *force majeure*, the structure shall be rebuilt only in compliance with this Bylaw if it is physically possible to do so. The Board of Adjustment 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 this provision the Board of Adjustment shall take into consideration the ability of the applicant to utilize remaining features of the property such as foundation, water supply, sewage disposal system, topography, underground utilities, etc.). No fee shall be charged for an application for an appeal to the Board of Adjustment necessitated by replacement of a structure destroyed by a *force majeure*.

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

- a) such action does not increase the degree of non-compliance and will not substantially impair the appropriate use or development of adjacent property, in addition to the general conditional use review criteria in the Act, § 4414; or if
- b) the sole purpose of such action is compliance with mandated environmental, safety, or energy codes, laws or regulations.

**5.9 OBSTRUCTION OF VIEW**

On any corner lot, there shall be no obstruction to vision within the rights-of-way.

**5.10 OFF-STREET PARKING**

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

<b>Table 5.1 Parking Space Requirements</b>	
<b>USE</b>	<b>PARKING REQUIREMENTS</b>
Childcare Facilities	1 per four children plus 1 per employee
Churches & Schools	1 per 6 seats in assembly room
Clinics, Nursing & Group Homes	1 per 3 beds plus 1 per employee
Clubs (non-profit)/Societies	1 per 4 members
Industry	2 per 3 employees on largest shift
Lodging Establishments (including hotel/motel and bed and breakfasts)	1 per lodging (rental) unit
Professional & Business Services Establishments	1 per 200 sq. ft. of floor space
Residential	2 per dwelling unit

Restaurants (not including drive-in)	1 per 4 seats plus 1 per employee
Retail Establishments	1 per 250 sq. ft. of floor space
Unspecified Uses & Off-street Loading	as required by Board of Adjustment

**5.11 PERFORMANCE STANDARDS**

The following performance standards must be met by all uses in all districts. Uses shall not:

1. Emit any intensity of odor that is considered both offensive and uncharacteristic of the area; normal agricultural odors shall not be deemed uncharacteristic of this Town
2. Emit any level of noise that is considered both offensive and uncharacteristic of the area; normal agricultural and animal noises shall not be deemed uncharacteristic of this Town
3. Emit any smoke in excess of that shown on Ringelmann Chart #2
4. Emit any dust, dirt, or other materials that endanger the health, comfort, safety, or welfare of the public or neighbors, or that causes any damage to property, business, vegetation, or property values, of others;
5. Have lighting that creates glare that could impair the vision of a driver of any motor vehicle;
6. Present an undue risk as to fire, explosion, or safety; or
7. Cause sewage, septage, or other harmful wastes to be discharged into any water course, or into any sewage disposal system beyond its proper capacity.

**5.12 SIGNS**

**A.** A building permit shall be required prior to the erection, construction, or replacement of any outdoor sign except the following, which shall be exempt from permit requirements:

- Signs erected by the Town, or State, on public roads,
- Non-advertising signs placed for safety purposes, etc.,
- Temporary auction, lawn sale, candidate endorsement, real estate, or garage sale signs, which shall be promptly removed when they have fulfilled their functions.

**B.** The following shall be prohibited in all districts:

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

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

TYPE OF USE	PERMITTED NUMBER OF SIGNS	MAXIMUM AREA (SQ. FT)		MAXIMUM HEIGHT OF FREE-STANDING SIGNS
		ONE SIGN	ALL	
Home Occupations	2	6	12	8
Business or Industry	2	30	50	10
Church, School, or Public Use	1	24	24	10

### **5.13 STORAGE OF VEHICLES AND JUNK**

In any district, motor vehicles that are both non-operative and non-inspected shall be stored in an enclosed structure or in an area concealed from public roads. Junk storage areas of 200 square feet or more are considered junkyards and are prohibited in all districts.

Vehicles being used in farm operation are exempt from this provision.

### **5.14 TEMPORARY USES AND STRUCTURES**

Temporary permits may be issued by the Zoning Administrator for nonconforming uses and non-conforming structures incidental to construction projects, provided that the property owner shall remove the temporary structure or use promptly upon the expiration of the construction project permit and that such use or structure does not infringe upon the rights of adjoining property owners.

### **5.15 WASTEWATER AND POTABLE WATER SUPPLY SYSTEMS**

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

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

## **SECTION 6 SPECIFIC USE STANDARDS**

### **6.1 APPLICABILITY**

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

### **6.2 ACCESSORY DWELLINGS**

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

- 1) Floor space of the habitable living area shall not exceed thirty (30) percent of the floor space of the habitable living area of the single family residence or 600 square feet, whichever is greater; and
- 2) The property has sufficient wastewater capacity; and
- 3) All applicable setbacks, coverage and parking requirements for the district in which the residence is located are met; and
- 4) Either the primary or the accessory dwelling is occupied by the owner.

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

### **6.3 CAMP CONVERSIONS**

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

- A.** The property shall have a wastewater system and year-round access to potable water conforming to all current State regulations.
- B.** The property shall have adequate road access in accordance with local ordinances (a letter from the fire chief is required).
- C.** Two off-street parking spaces per dwelling unit are provided on the lot.

### **6.4 RECREATIONAL VEHICLES AND CAMPGROUNDS**

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

**B.** New campgrounds, and any addition or alteration to an existing campground shall be subject to the following regulations:

- Conditional use approval is required;
- Campgrounds shall provide individual recreational vehicle or tent spaces. All campgrounds shall comply with State regulations.
- A strip of land at least thirty (30) feet wide shall be maintained as an undeveloped buffer area abutting all campground property lines. No recreational vehicle, tent, or service building shall be located in this buffer area. The Board of Adjustment may reduce, or eliminate, this buffer area provision if such a modification, or waiver, will make it possible to preserve a scenic view from the campground, providing that privacy for adjoining property owners can be maintained.
- Collector roads within the campground shall meet the following minimum standards:

	ONE-WAY ROAD	TWO-WAY ROAD
Right-of-way Width	18 FT.	30 FT.
Gravel Depth	12 IN.	12 IN.
Gravel Width	10 FT.	20 FT.

**6.5 CHILD CARE HOME**

A home providing care for no more than six children full time and four children part time, shall be considered to constitute a permitted single-family residential use of property. Care of a child on a part-time basis shall mean care for not more than four hours a day. These limits shall not include children who reside in the residence of the caregiver, except:

- any school-age child may be cared for on a full-day basis during school closing days, snow days and vacation days that occur during the school year; and
- during the school summer vacation, up to 12 children may be cared for provided that no more than six of these children are younger than school age, and a second staff person is present and on duty when the number of children in attendance exceeds six. These limits shall not include children who are required by law to attend school (age 7 and older) and who reside in the residence of the caregiver (33 V.S.A. § 4902 (3)).

**6.6 HOME OCCUPATIONS**

No provision of this Bylaw shall infringe upon the right of any resident to use a portion of a dwelling for an occupation which is customary in residential areas and which does not change the character thereof.

Home occupations shall be permitted as an accessory use in all districts where residential uses are permitted subject to the following provisions:

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

2. The home occupation shall be carried out by persons residing in the dwelling unit. Three additional full-time employees, or part-time equivalents, are permitted.
3. No traffic shall be generated which would be uncharacteristic of the neighborhood. Employee and customer parking must be off public streets.
4. Exterior displays, or signs, other than those normally permitted in Section 5.10 of this Bylaw, exterior storage of materials, and exterior indications of the home occupation, or variations from the residential character of the premises shall be prohibited.
5. The existence of a home occupation shall not constitute commercial status on any property, regardless of the length of time during which such home occupation exists.

## **6.7 EXCAVATION AND EARTH RESOURCE EXTRACTION**

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

Before approval of any new, or expansion of, a sand or gravel operation, a performance bond shall be secured from the applicant sufficient to ensure that, upon completion of the operation, the site will be restored for other development uses. Bonding shall be required, sufficient to cover the completion of the reclamation and maintenance of such improvements for a period of two (2) years after completion. The amount of bond shall be established by the Board of Adjustment based upon the operator's estimate, bids or other information deemed necessary by the Board of Adjustment, but shall not exceed one hundred fifty (150) percent of the projected improvement and maintenance cost.

1. All surface drainage affected by excavation operations shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, street, or private property.
2. Adjoining land areas should be protected from undue adverse impacts resulting from dust, noise, or air pollution. No power-activated sorting or crushing machinery or equipment shall be located within three hundred feet of any street or other property line, and all such machinery shall be equipped with satisfactory dust control devices.
3. Within the required setback areas, the natural vegetation shall be retained, and supplementary planting may be required in order to buffer impacts from the operation.
4. Suitable fencing or other appropriate safety precautions may be required around extraction sites, sedimentation ponds, and spoil or equipment storage areas.
5. Explosives may be used only per a plan approved by the Board of Adjustment and only after it has been demonstrated by the applicant that the use of such materials will not have an adverse impact on adjoining properties.
6. The removal operation sites shall be graded smooth and left in a neat condition. Cut slopes and soil banks shall not be allowed to remain. The operation site shall be mulched and reseeded so as to establish a firm cover of grass or other vegetation sufficient to prevent erosion

## **6.8 MOBILE HOME PARKS**

Mobile home parks are subject to all state laws in addition to the requirements of this bylaw. Mobile home parks are considered to be planned unit developments and shall be reviewed as such in accordance with Section 9.

## 6.9 WIND ENERGY CONVERSION SYSTEMS (WECS)

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

- A. Application Requirements.** In addition to the conditional use application requirements the application shall include a plot plan showing proposed location of all conversion system poles or towers, guy lines where required, and guy line anchor bases and their distance from all property lines. The safety of the design shall be certified by a professional engineer or by an authorized factory representative.
- B. Review Standards.** In addition to the conditional use standards in Section 4.4, wind energy conversion systems shall conform to the following specific standards:
- *Setback-* No part of the system shall be located within or above any required front, side, or rear setback area of the district in which it is located. The WECS shall be located at a distance of at least 1.25 times the height of the facility (measured from the base to the highest reach of the blade) from any structure occupied by humans and from all property lines. The setback from the property lines shall be waived if the abutters of those affected properties so grant their permission in writing.
  - *Height-* The minimum height of the lowest position of the WECS blade shall be at least thirty (30) feet above the ground and forty (40) feet above the highest structure or tree within a two hundred and fifty (250) foot radius.
  - *Aesthetics-* The system shall be designed and placed in such a manner to minimize to the greatest extent feasible, all adverse visual impacts on neighboring areas. The colors and surface treatment of the structures shall to the greatest extent feasible, minimize disruption of the natural characteristics of the site.
  - *Access-* To ensure safety, all towers or poles must be unclimbable by design for the first twelve (12) feet or be enclosed by a six (6) foot fence and locked gate at the perimeter of the base.
  - *Noise-* The windmill shall not exceed 60 decibels (dBA), as measured at the lot line.

## **SECTION 7 SUBDIVISION REVIEW**

### **7.1 APPLICABILITY**

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

### **7.2 MINOR AND MAJOR SUBDIVISIONS**

For the purposes of these regulations, subdivisions shall be classified as *minor subdivisions* or *major subdivisions* in accordance with the following:

- A.** Minor Subdivisions shall include any subdivision resulting in two (2) lots, amendments to an approved subdivision plan, and boundary line adjustments.
- B.** Major Subdivisions shall include any subdivision that divides an existing lot into three (3) or more lots and planned unit developments (PUDs) that include the subdivision of land.

### **7.3 ADMINISTRATION AND ENFORCEMENT**

**A. Administration.** These subdivision regulations shall be administered by the Planning Commission.

**B. Modifications.** The Planning Commission may modify the requirements for improvements such as roads, sidewalks, and the like, if in its judgment they are not necessary for the protection of public health, safety, and general welfare or are inappropriate given the special circumstances of a particular plat (24 V.S.A. § 4418(2)(A)). The Planning Commission may impose appropriate and reasonable conditions to address the objectives of the modified requirements. No such modification may be granted if it would have the effect of nullifying the intent and purpose of this Bylaw, or the Act.

**C. Boundary Line Adjustments.** Applications for boundary line adjustments, which do not create any additional lots, make conforming lots non-conforming, or increase the degree of nonconformance of any existing lot or use, may be exempted from sketch plan review and proceed immediately from application to final plan review.

**D. Appeals.** Any decision of the Planning Commission may be appealed to Environmental Court as provided in 24 V.S.A., Section 4471.

**E. Violations.** Violations of these subdivision regulations shall be subject to the penalties, remedies, and enforcement procedures provided in Section 2.8 of this bylaw, and in 24 V.S.A. § 4451 and § 4452 of the Act.

### **7.4 APPLICATION MATERIALS**

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



**Table 7.1 Subdivision Application Requirements**

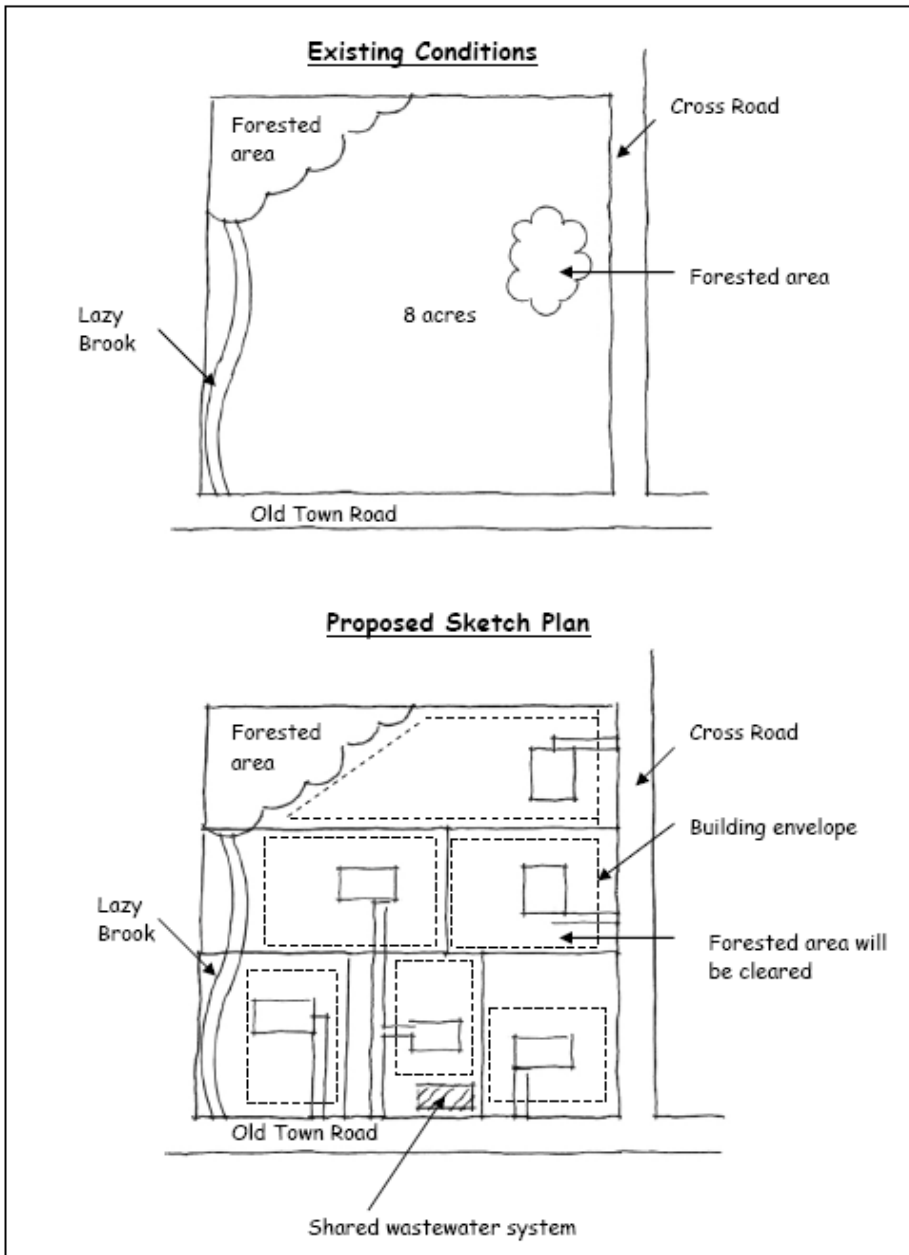
<b>Application Information</b>	<b>Sketch</b>	<b>Preliminary Plat</b>	<b>Final Plat</b>
Application form (6 copies)		✓	
Application fee		✓	✓
Name of project	✓	✓	✓
Name, address of applicant [landowner and/or subdivider]	✓	✓	✓
Written description of proposed development plans, including number and size of lots and general timing of development	✓	✓	✓
Requests for modifications, in writing [if applicable]	✓		
Names, mailing addresses of all adjoining property owners		✓	✓
Copy of state wastewater permit(s) or letter of exemption			✓
<b>Required Maps</b>	<b>Sketch Plan Paper, Drawn</b>	<b>Preliminary Plat Paper, Drawn</b>	<b>Final Plat Mylar, Surveyed</b>
	6 copies	2 full size, 6 11x17 copies	2 full size, 6 11x17 copies
Preparer information, certifications	✓	✓	✓
Scale (minimum 1 inch = 200')		✓	✓
Date, north arrow, legend	✓	✓	✓
Project boundaries, property lines, and total acreage	✓		
A land survey showing existing and proposed property boundaries, property lines, and total acreage.		✓	✓
Location map showing relation of proposed subdivision to adjacent properties, public roads, and the surrounding area.	✓	✓	✓
Boundaries and areas of all contiguous land belonging to the applicant, including land separated by a public right-of-way	✓	✓	✓
The location of natural features located on the site and adjacent properties including, but not limited to: <ul style="list-style-type: none"> <li>• watercourses</li> <li>• wetlands (class 1, 2 and 3)</li> <li>• areas of slope in excess of 15% and 25%</li> <li>• historic or archeological resources</li> <li>• designated floodplains</li> <li>• prime and statewide agricultural soils</li> <li>• significant rock outcroppings</li> <li>• forested areas.</li> </ul>	✓	✓	✓
Existing and proposed layout of lot lines and dimensions	✓	✓	✓
Location and names of existing and proposed roads, rights of way, trails, sidewalks, and parking areas on site and on adjacent properties	✓	✓	✓

<b>Table 7.1 Subdivision Application Requirements (Cont'd)</b>			
<b>Plan/Plat Mapping Requirements and Materials</b>	<b>Sketch Plan</b> Paper, Drawn	<b>Preliminary Plat</b> Paper, Drawn	<b>Final Plat</b> Mylar, Surveyed
The location of existing structures and land uses located on the site and on adjacent properties	✓	✓	✓
The building envelopes of proposed structures	✓	✓	✓
Zoning district names and boundaries	✓	✓	✓
Proposed open space, common land, deferred lots, and/or recreation land within the proposed subdivision	✓	✓	✓
The type and location of existing and proposed restrictions on land, such as easements	✓	✓	✓
Existing and proposed utilities, water and wastewater infrastructure, culverts and stormwater drainage infrastructure, all associated rights-of-way, easements, and proposed connections	✓	✓	✓
Existing or proposed landscaping or screening	✓	✓	✓
Design of any required bridges or culverts		✓	✓
Typical cross section of the proposed grading of roadways and sidewalks; street, intersection, and parking area profile and geometry; building lines; and alleys; as well as similar facts on adjacent properties		✓	✓
Base flood elevation if more than 5 acres or 50 lots in the Flood hazard overlay district.		✓	✓
<b>Supporting Information/Documentation (as may be required at Preliminary Plat or Final Plat Review)</b>			
Existing and proposed traffic generation rates and volumes			
Proposed phasing schedule			
Proposed covenants and/or deed restrictions			
Proposed homeowner or tenant association agreements			
Proposed performance bond or surety			
Stormwater and erosion control plan			
Grading plan, showing proposed areas of cut and fill			
Site reclamation plan, for subdivisions involving extraction of natural resources			
Traffic impact analysis (current and proposed traffic volumes, capacities, levels of service, proposed improvements)			
Fiscal impact analysis (analysis of fiscal costs and benefits to the town)			
Environmental impact assessment (analysis of potential environmental impacts, proposed mitigation measures)			
Other			

**7.5 SKETCH PLAN REVIEW [Required for All Subdivisions]**

**A. Initial Meeting.** When the Zoning Administrator has received all necessary application materials as described in Table 7.1 and determined that the sketch plan application is complete, the Zoning Administrator shall refer the application to the Planning Commission for sketch plan review. The applicant and/or an authorized representative shall attend the sketch plan meeting to discuss the subdivision application and proposed sketch plan. At this meeting, the Planning Commission may request any additional information as needed to act

on the sketch plan. Figure 7.1 demonstrates the level of detail that is expected on a sketch plan. Applicants are encouraged to submit hand drawn sketches and are discouraged from making significant investments in engineered plans prior to sketch plan review. There shall be no fee for the first two sketch plan meetings; there will be a fee for subsequent sketch plan meetings.



**Figure 7.1. Sketch Plan.** The sketch plan review process provides an applicant with the opportunity to get early feedback on their plans for a site. This sample sketch plan shows the level of detail that is expected at this stage in the process. Applicants are encouraged to go through sketch plan review prior to making a significant investment in engineered plans.

**B. Sketch Plan Review Criteria.** In completing sketch plan review, the Planning Commission shall complete the following:

1. Classify the sketch plan as either a minor subdivision or a major subdivision.
2. Discuss any request for modification
3. Make a preliminary determination on whether the proposal generally conforms to the

subdivision planning and design standards in Section 8, the Town Plan, and any other municipal ordinances or bylaws in effect.

4. If deemed necessary, make specific requirements or recommendations for changes in subsequent submissions, including any requests for additional studies or supporting documentation.
5. If deemed necessary, require the applicant to disclose future development plans in a master buildout plan. A master buildout plan describes the potential build-out of the entire parcel and adjacent parcels, even if the application only includes a portion of the parcel(s). The master buildout plan may be drawn in a sketch plan format. The Planning Commission may require that the master buildout plan be submitted as part of an extended sketch plan review, or as a part of the preliminary or final subdivision approval. Approval of an applicant's current application does not constitute approval of the master buildout plan.

**C. Action on Sketch Plan.** The Planning Commission shall issue a written determination on the sketch plan within 45 days of the close of the sketch plan meeting, which may include requirements or recommendations for modifications to the sketch plan, additional studies, or supporting documentation. The Planning Commission's determination shall specifically note whether the application should be resubmitted for sketch plan review or should be submitted for preliminary plan review (in the case of major subdivisions) or final plan review (in the case of minor subdivisions).

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

## **7.6 PRELIMINARY PLAN REVIEW [Required for Major Subdivisions]**

**A. Application Requirements.** Within six (6) months of the date of issuance of a sketch plan determination (unless this time limit is specifically extended by the Zoning Administrator), applicants for major subdivision approval shall submit the required application materials (see Table 7.1) and all associated fees to the Zoning Administrator.

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

**C. Preliminary Plan Review Criteria.** In completing preliminary plan review, the Planning Commission shall determine that the proposed subdivision conforms to all of the standards and conditions contained in Section 8, Planning and Design Standards, conforms to the

goals and policies of the Bakersfield Town Plan, and conforms to any other applicable local ordinances or bylaws. In addition, the Planning Commission may impose other modifications as necessary, including specific changes for subsequent submissions, additional studies, or supporting documentation to protect the public safety and welfare and to ensure compliance with the Town Plan, these regulations, and other bylaws and ordinances in effect.

- D. Action on Preliminary Plan.** Within 45 days of the date the public hearing is closed, the Planning Commission shall issue a determination on the preliminary plan, which may include recommendations for modifications, additional studies, or supporting documentation to be submitted in final plan review.
- E. Effect of Preliminary Plan Approval.** Approval of a preliminary plat does not constitute approval of the subdivision plat. Prior to approval of the final subdivision plat, the Commission may require additional changes as a result of further study. The approval of a preliminary plat shall be effective for a period of six (6) months, and any plat not receiving final approval prior to the expiration of six (6) months shall be null and void and the subdivider shall be required to submit a new plat for preliminary approval subject to all new zoning and subdivision regulations. The Planning Commission may grant extensions beyond this six month period when there are delays the applicant is unable to avoid, or when a phased subdivision is required as a condition of preliminary plat approval.

## **7.7 FINAL PLAN REVIEW [Required for all subdivisions]**

- A. Application Requirements.** Within six (6) months of the date of issuance of sketch plan approval for minor subdivisions, or preliminary plan approval for major subdivisions, subdivision applicants shall submit the required application materials (see Table 4) and all associated fees to the Zoning Administrator.
- B. Public Hearing Requirements.** Within thirty (30) days of receiving a complete Final plat and fees, the Planning Commission shall hold a public hearing following the public notice and public hearing procedures of Section 2.3.
- C. Final Plan Review Criteria.** In completing a final plan review, the Planning Commission shall determine that the proposed subdivision conforms to all of the standards and conditions contained in Section 8, Planning and Design Standards, conforms to the goals and policies of the Bakersfield Town Plan, and conforms to any other applicable local ordinances or bylaws. In addition, the Planning Commission may impose other conditions of approval as necessary to protect the public safety and welfare and to ensure compliance with the Town Plan, these regulations, and other bylaws and ordinances in effect.
- D. Action on Final Plan.** Within 45 days of the date the final public hearing is closed, the Planning Commission shall issue a written decision that approves, approves with conditions, or disapproves the final subdivision application. If the Planning Commission fails to act within 45 days, the final subdivision plat shall be deemed approved.

### **E. Conditions of Final Plat Approval.**

1. Final plat approval shall expire 180 days from the date of decision unless such plat has been filed or recorded in accordance with Section 7.9(A). It shall be illegal to subdivide

a parcel without a recorded drawing as approved by endorsement by the Planning Commission thereon, in accordance with its decision, and within the 180-day period.

2. Final Approval by the Planning Commission shall not be deemed evidence of any acceptance by the Town of any proposed street, easement, utility, open space, or other required public improvements shown on the final plat. Such acceptance may only be accomplished by a formal resolution of the Selectboard.
3. All streets, drainage, water, sewer, and other required improvements shall be provided and installed at the sole expense of the subdivider as a condition of plat approval by the Planning Commission. The Planning Commission may require a performance bond to secure completion of such improvements and their maintenance for a period of two years with a certificate from the Selectboard that it is satisfied either with the bonding or surety company, or with the security furnished by the subdivider. The amount and terms of the bond shall be determined by the Planning Commission, but in no case shall the terms run longer than three years. The bond shall be released only when the conditions have been satisfied in the judgment of the Planning Commission. In the event any required improvements have not been installed or maintained in accordance with the terms of the bond, such bond shall be forfeited to the Town and the proceeds thereof used by the Town to install and maintain such improvements as are covered by the conditions of the bond.

**F. Effect of Final Approval.** The Planning Commission's approval of a final subdivision plan and associated plat shall not be construed to constitute acceptance 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 of the Selectboard in accordance with state statutes. Each approval shall contain a time limit within which all improvements shall be completed, not to exceed three years, unless otherwise required or extended by the Planning Commission.

## **7.8 MISCELLANEOUS PROCEDURAL PROVISIONS**

- A.** The subdivider shall be required to re-open his application at the sketch plan level:
1. If the subdivider fails to submit the Final Plat Plan within six months of the Preliminary Plat Approval; or
  2. If any newly presented data differ substantially, in the judgment of the Planning Commission, from the last agreed upon or approved version. Any modifications by the Planning Commission as a condition of approval must become part of the plat. All resubmitted data must be updated and accurate.
- B.** If the final plat is rejected by the Planning Commission, the applicant may reapply, twice, with a revised Final Plat.
- C.** All official submissions to the Planning Commission must be signed by the subdivider.
- D.** All required data submissions, and the burden of proof under these regulations shall be the responsibility of the applicant subdivider.

## **7.9 PLAT RECORDING REQUIREMENTS**

- A.** Within 180 days of the date of receipt of final plan approval, the applicant shall file two (2) copies of the final subdivision plat, including one (1) mylar copy and (1) paper copy, for recording with the town. Approval of subdivision plats not filed and recorded within this 180-day period shall expire. However, the Zoning Administrator may grant one 90-day extension for plat filing.
- B.** Prior to plat recording, the plat must be signed by the Chair of the Planning Commission.
- C.** The municipality shall meet all recording requirements for final subdivision plan approvals as specified for municipal land use permits under Section 2.4.

## **7.10 REVISIONS TO AN APPROVED PLAT**

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

## **SECTION 8 PLANNING AND DESIGN STANDARDS FOR SUBDIVISIONS**

### **8.1 APPLICATION OF STANDARDS**

The Planning Commission shall evaluate any minor or major subdivision in accordance with the procedures described in Section 4 and the standards set forth below. The Planning Commission may require modification of subdivision design and/or additional measures to avoid or mitigate any adverse impacts and to ensure conformance with these regulations.

### **8.2 GENERAL SUBDIVISION STANDARDS**

**A. Character of the Land.** The Planning Commission shall determine that any land proposed for subdivision is of a character appropriate for the intended purpose and density of use, as proposed in the subdivision application, without inflicting undue adverse impact on public health and safety, the environment, neighboring properties, or the character of the surrounding area and community.

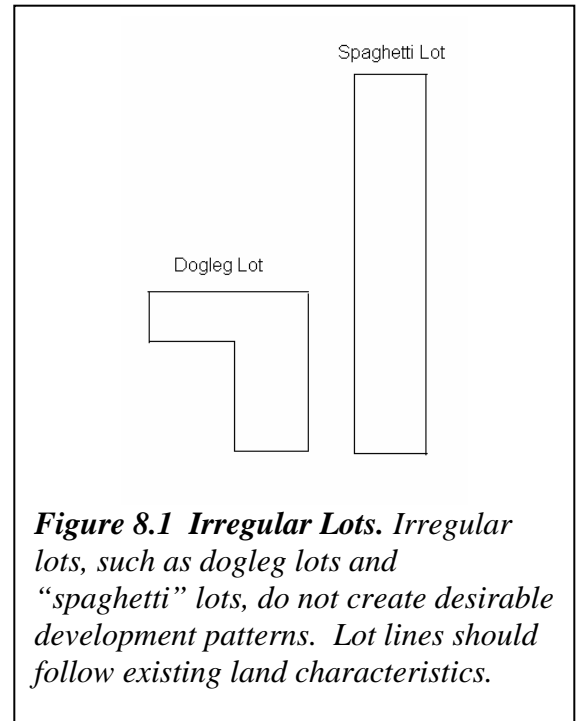
**B. Compatibility with Desired Settlement Patterns.** Subdivisions shall be designed and laid out to achieve the desired settlement pattern and purpose of the district in which they are located as defined in Section 3.3 and the Town Plan. New subdivisions shall:

- maintain and extend desired settlement patterns, including lot area and configuration, road layout, and building locations for the neighborhood or district in which they are located; and
- maintain contiguous tracts of open space and forests; and connect to, and extend where appropriate, existing road, path, utility and open space corridors.

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

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

- 1) No new lot created shall have an area or frontage less than the minimum required for the district in which it is located. Any public right-of-way or private street shall create lot frontage (corner lots, therefore, have frontage on two roadways).
- 2) Dogleg lots, “spaghetti” lots, and lots otherwise contorted in order to get around this Bylaw are not permitted. Lot lines should be designed to follow existing land characteristics such as land



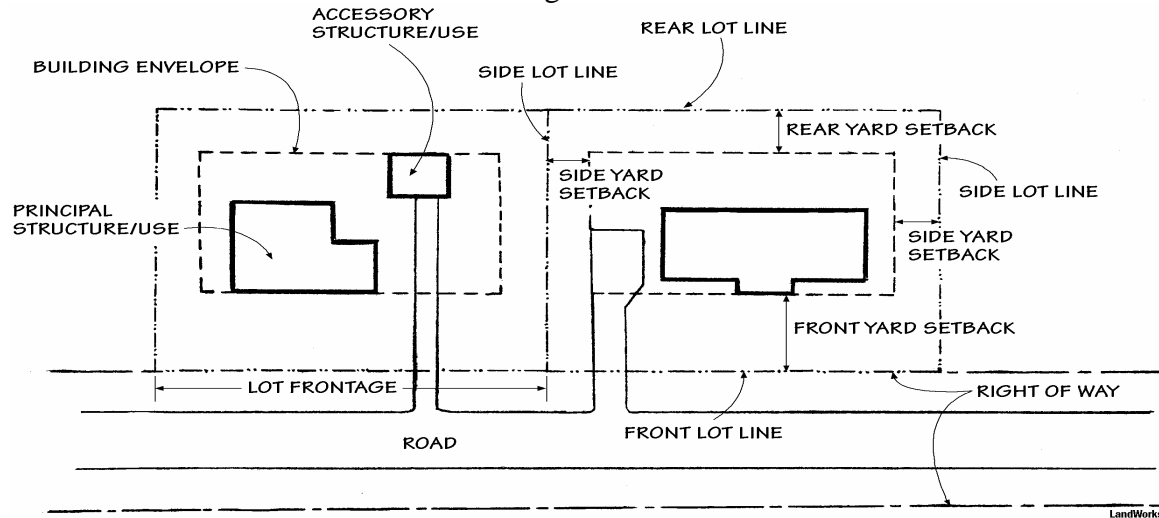
**Figure 8.1 Irregular Lots.** Irregular lots, such as dogleg lots and “spaghetti” lots, do not create desirable development patterns. Lot lines should follow existing land characteristics.



contours, fence lines, roads, and paths, as well as to protect significant natural resources or to avoid excessively steep slopes, water courses, and wetlands.

- 3) No new lot shall be created unless it has an approved access in accordance with Section 5.2.
- 4) Lower densities of development than those proposed may be required by the Planning Commission based on site limitations.
- 5) Lot layout shall be appropriate for the intended use, and reflect the purpose of the district in which lots are created.

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



**Figure 8.2 Building Envelopes.** The building envelope identifies the area in which development will take place and must be depicted on the subdivision plans.

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

**G. Monuments & Lot Corner Markers.** Permanent monuments and corner markers shall be placed on all subdivided parcels in conformance with the current version of the Rules of the Board of Land Surveyors, Part 5, Standards for the Practice of Land Surveying.

### 8.3 ROAD STANDARDS

**A. Applicability of Road Standards.** These standards shall apply to all proposed public and private roads. Acceptance of private roads by the municipality is subject to the approval of the

Selectboard. Construction of roads to these standards in no way ensures acceptance.

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

- 1) Dead end roads are specifically discouraged. All dead end roads shall be constructed with a suitable turn around at the end; “T”, “Y”, and cul-de-sac configurations suitable to topography and adequate for emergency vehicles to turn around efficiently are permitted.
- 2) Roads shall logically relate to topography to minimize site disturbance and to produce usable lots in relation to the proposed use of the land they will serve, including the amount of cut and fill required, reasonable grades, and safe intersections. Road grades should be consistent with local terrain. Maximum road grade shall not, in any 50-foot section, exceed an average of eight percent.
- 3) Roads shall be designed and laid out to:
  - avoid impacts on natural, historic, cultural and scenic resources, and to enhance the vitality of the village areas;
  - follow existing linear features, such as utility corridors, tree lines, hedgerows, and fence lines, and should avoid fragmentation of agricultural land, forests and open fields;
  - be consistent with existing road patterns in village and other settlement areas, including the selection of visually compatible materials, the preservation of existing features, and the management of vegetation within the road corridor; and
  - maximize connectivity within the subdivision and to adjoining parcels and road networks.

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

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

- 1) A safe sight stopping distance is provided as determined by probable traffic speed, terrain, alignments and climatic extremes. Generally, sight distance should be eleven (11) times the speed limit (e.g. a curb cut on a road with 40 mph speed limit would require a minimum sight distance of 440 feet which provides a gap of 7.5 seconds of travel time).
- 2) It is directly opposite an existing road or driveway to form a four-way intersection wherever feasible. The Planning Commission shall not permit intersections that create centerline offsets of less than 125 feet.
- 3) It intersects the existing roadway at an angle between 70 and 90 degrees.
- 4) Its slope within 100 feet of an intersection shall not exceed three (3) percent.
- 5) No structure or planting is situated to impair corner visibility.

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

- 1) When feasible and appropriate, the arrangement of roads in a subdivision shall provide for connectivity with roads in adjoining neighborhoods and/or allow for future connection to adjoining properties not yet subdivided. Road connectivity from neighborhood to neighborhood increases accessibility for fire protection and emergency services, allows for movement of traffic and pedestrians to and from community facilities, and increases the feasibility of constructing or extending needed utilities and public services. Where it is not feasible or appropriate to connect a proposed road with adjacent neighborhood(s), the Planning Commission may require the set aside of rights-

of-way for future access to development on the lot or adjacent properties, require connectivity via pedestrian rights of way in conformance with Section 7.4 (C) below, or otherwise modify this requirement.

- 2) Shared driveways and/or internal development roads providing access to multiple lots are encouraged and may be required to limit the number of access points onto public highways in accordance with Section 4.2.

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

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

#### **8.4 CURBS, SIDEWALKS, AND PEDESTRIAN ACCESS**

- A. All developments in Bakersfield shall contain provisions for pedestrian traffic that is adequate in terms of safety, convenience, access to points of destination, attractiveness, and connections with pedestrian ways on adjoining properties.
- B. Within all major subdivisions, the Planning Commission shall require pedestrian rights-of-way in the form of perpetual unobstructed easements to facilitate pedestrian and bicycle circulation and to ensure access to adjoining properties, uses, or public facilities.
- C. Sidewalks shall be required in major subdivisions in the Village Center District and may be required for minor subdivisions. Sidewalks shall be required to connect to sidewalks on abutting properties if they exist.

#### **8.5 COMMUNITY SERVICES AND FACILITIES**

- A. **Municipal Facilities and Services.** The proposed subdivision shall not create an undue burden on municipal facilities or create an unreasonable demand for public services (e.g. shall not result in an increase in student enrollment in excess of existing or planned school capacity).
- B. **Fire Protection Facilities and Emergency Access.** Subdivisions shall provide adequate water storage or distribution facilities for fire protection and adequate access for emergency service vehicles to the satisfaction of the Planning Commission. The applicant shall submit documentation from the Bakersfield Fire Department as to the adequacy of emergency access and fire protection facilities. Where recommended by the Bakersfield Fire

Department, the Planning Commission shall require the applicant to install fire hydrants, dry hydrants, or ponds.

## 8.6 UTILITIES

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

- 1) The Planning Commission may require that all utility lines, including but not limited to electric, fiber optic, gas, telephone, and cable television, be located underground throughout the subdivision, in order to reduce wind and ice damage to lines and protect the scenic character of the community.
- 2) The subdivider shall coordinate subdivision design with utility companies to insure adequate and suitable areas for underground and above-ground installation, both for the proposed subdivision and areas adjacent to the subdivision.
- 3) Utility corridors shall be shared with other utility and or transportation corridors where feasible, and located to minimize site disturbance, the fragmentation of agricultural, forest and conservation lands, and any adverse impacts to natural, cultural or scenic resources and to public health.

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

## 8.7 PROTECTION OF FARMLAND AND FORESTS

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

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

- 1) Building envelopes shall be located at field and forest edges and on the least fertile soil in order to minimize the loss of productive agricultural and silvicultural land, impacts on existing farm operations, fragmentation of forests and wildlife habitat, and disruption to the scenic qualities of the site.
- 2) In the rural district:
  - a) vegetated buffer areas shall be required between agricultural and other uses to minimize land use conflicts.
  - b) The space used for access roads, driveways, and utility corridors shall be minimized (for example, by sharing). Where sites include linear features such as existing roads, tree lines stonewalls and/or fence lines, new infrastructure shall follow these to minimize the fragmentation of productive agricultural land and minimize visual impacts.

## 8.8 STORMWATER MANAGEMENT AND EROSION CONTROL

**A. Stormwater Management.** Stormwater drainage, infiltration, retention and treatment facilities, including culverts and ditches, shall be designed to accommodate potential stormwater runoff from the entire upstream drainage area, based on conditions of total potential development. The Planning Commission will require the subdivider to maintain post-development peak storm flows at predevelopment levels. All stormwater management facilities shall be designed in accordance with best management practices (BMPs) for stormwater management as most recently amended by

the Vermont Agency of Natural Resources. The preparation and implementation of a stormwater management plan, prepared by a Professional Engineer licensed by the State of Vermont, may be required by the Planning Commission. Off-site easements and/or management facilities may also be required by the Planning Commission as needed to accommodate stormwater runoff on adjoining properties or downstream from the proposed development.

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

## 8.9 LANDSCAPING AND SITE PRESERVATION

**A. Site Preservation of Existing features.** Site amenities such as trees and tree lines, water courses or drainageways, scenic roads, historic sites, unique geologic features, fences, stone walls, or any other features that the Planning Commission feels are an asset to the site and/or community shall be preserved insofar as possible through harmonious design and appropriate construction methods in accordance with policies and goals set forth in the Town Plan. Development shall be set back 100 feet from streambanks and shall maintain existing vegetation as much as possible.

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

- 1) Landscaping shall take the form of native shade trees, deciduous shrubs, evergreens, well kept grasses, ground cover and site modifications such as berms.
- 2) In determining the amount and type of plantings to be required, the Planning Commission shall take into account at least the following:
  - Existing trees, shrubs, evergreens and other vegetation to be preserved on the site;
  - The visibility of incompatible or unsightly areas from public roads and/or adjacent properties;
  - The landform and overall landscaping plan for the development; and
  - Other factors which affect the safety and appearance of the development.
- 3) Native Street trees may be required along state and town highways particularly in the Village Center District.
- 4) Parking areas for uses other than single and two-family dwellings shall be required to be landscaped or screened from adjacent uses.
- 5) Landscaping shall be installed in a time frame established by the Planning Commission.

## 8.10 LEGAL REQUIREMENTS

**A.** Every subdivision plat shall show all proposed road and pedestrian rights-of-way, as required under these Regulations, regardless of whether a proposed right-of-way is intended to be accepted by the Town. In the event that the right-of-way is not intended for

acceptance by the Town, the mechanism by which the right-of-way is to be maintained, owned and/or conveyed shall clearly be documented.

- B.** The applicant shall provide the Planning Commission with appropriate documentation for the adequate management and maintenance of all commonly owned entities, including community wastewater and water supply systems, community facilities, parking areas, road, trail and utility rights-of-way, and open space. Ownership, management, and maintenance shall be clearly dictated in a covenant, easement, and/or other legal mechanism approved by the Planning Commission. All legal documents applying to a particular parcel shall be included in the deed and recorded in the Bakersfield Land Records.

## **SECTION 9 PLANNED UNIT DEVELOPMENT**

### **9.1 PURPOSE AND APPLICABILITY**

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

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

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

### **9.2 REVIEW PROCESS AND APPLICATION MATERIALS**

- A. An application for PUD approval shall also require review as a major subdivision if the project involves the subdivision of land. If a PUD does not involve the subdivision of land, the project shall require site plan review, in accordance with Section 4.3.
- B. Approval of a PUD that involves the development of one (1) or more conditional uses shall require conditional use review in accordance with Section 4.4.
- C. In addition to the application requirements for subdivision review or site plan review, as applicable, applications for PUDs must include the following:
  - 1) A brief summary of the project and how it meets the standards in this section;
  - 2) A statement describing all proposed modifications of this Bylaw, including the proposed size and layout of lots and open space, and the design, size, and spacing of buildings;
  - 3) Articles of association, bylaws, or declarations of condominium for those developments that propose to include open space, recreation areas, roads, parking areas, community water and sewer systems, or other facilities used, owned, or maintained in common; and
  - 4) Plans for the permanent protection, maintenance and/or management of open space areas included within the development.

### **9.3 GENERAL PUD STANDARDS**

In addition to the Planning and Design Standards and other provisions of these regulations, PUDs shall meet the following standards. The Planning Commission may impose conditions to ensure that these standards are met:

- 1) The project shall be consistent with the Bakersfield Town Plan.
- 2) PUDs may include a mix of compatible uses. These uses shall be arranged and buffered to ensure visual and acoustical privacy to residents in and around the development.
- 3) The minimum setback and yard requirements for the district in which the project is located

shall apply to the periphery of the development.

- 4) The development shall be an effective and unified treatment of the project site, and shall be designed to minimize impact on streams, stream banks, slopes greater than 15%, wetlands, soils unsuitable for development, agricultural lands, forested areas, historic sites, natural areas, wildlife habitat, floodplains, and scenic resources.
- 5) The development shall take place over a reasonable period of time in order that adequate municipal facilities and services may be provided.
- 6) A PUD should contain varied types of dwellings and varied, yet complementary, types of architectural style, lot sizes, building materials, and exterior colors.
- 7) A PUD may involve the creation of separate building lots, or may include a development in which multiple buildings and uses are constructed on a single parcel in common ownership.
- 8) A PUD shall contain open space for purposes appropriate to the district. The Planning Commission, as a condition of its approval, may establish such conditions on the ownership, use and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes.

#### 9.4 DENSITY OF DEVELOPMENT

- A. Except as provided in Subsection D (Density Bonus) below, the number of units allowed in a PUD shall not exceed the number that could be permitted if the land were subdivided based on the dimensional requirements of the zoning district.
- B. Where a zoning district boundary line divides a parcel, the development of a single PUD is allowed with a total number of allowable units based on the following formula:

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

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

Development may be located on any portion of the parcel, regardless of zoning district, in accordance with the standards set forth in these regulations. Building envelopes shall be located at field and forest edges and on the least fertile soil in order to minimize the loss of productive agricultural and silvicultural land, impacts on existing farm operations, fragmentation of forests and wildlife habitat, and disruption to the scenic qualities of the site.

- C. **PUDs Involving Two or More Parcels.**  
Two or more contiguous parcels may be combined in a single application for review as a PUD. The number of allowed units may be aggregated onto a single parcel to allow for greater concentrations of development

<p><b>Determining Density When a Single Parcel is Located in Two Zoning Districts</b></p> <p>Where a district boundary divides a parcel, the development of a single PUD is allowed with a total density based on the combined allowable density of each district. For example, a 15-acre parcel in which 10 acres is located in the Rural District and 5 acres is located in the High Density District has a maximum allowable density of 6 units, based the formula of:  10 acres x 1 unit/10 acres in Rural= 1 unit  5 acres x 1 unit/acre in High Density= 5 units</p>
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and corresponding preservation of open space. Prior to approving such an application, the Planning Commission shall determine that the development complies with the standards of this Section as well as the following standards:

- (1) The application will result in settlement patterns and the conservation of resources consistent with the goals of the Bakersfield Town Plan.
- (2) The area to be developed is appropriate for the proposed density.

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

- 1) At least 25 percent of the total project area is protected as open space, *or*
- 2) At least 50 percent of the housing units in the project are designated as perpetual affordable housing, *or*
- 3) At least 50 percent of the housing units in the project are designated as perpetual senior housing.

## 9.5 OPEN SPACE

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

- A.** Sewage disposal areas, stormwater treatment areas, utility and road rights-of-way or easements, access and parking areas shall not be counted as open space, except where the applicant can prove to the satisfaction of the Planning Commission that they will in no way disrupt or detract from the values for which the open space is to be protected.
- B.** The open space shall provide for the protection of resources on the site to the extent possible, including surface waters, wetlands, slopes greater than 15%, prime agricultural soils and forests, critical wildlife habitat, significant geologic features, and scenic resources.
- C.** The location, shape, size and character of the open space shall be suitable for its context and intended use. Areas preserved for agriculture and forestry should be of a size that retains their eligibility for available tax abatement programs. When possible, open space shall be located adjacent to areas sharing similar uses, characteristics or natural features.
- D.** In the Rural and Conservation Districts the amount of protected open space shall not be less than 50% of the total project area.
- E.** Open land shall be protected in perpetuity for its intended use by one of the following means as approved by the Planning Commission:
  - A conservation easement is granted to a third party, such as a land trust;
  - The open space may be held in common by a homeowners' association and protected by covenant from further development;

- The open space may be held by a single owner with a deed restriction prohibiting future development;
  - The open space may be conveyed in fee simple to one of the following as approved by the Planning Commission:
    1. the Town of Bakersfield, if it agrees;
    2. a non-profit organization whose mission includes the protection of natural resources, historic preservation and/or public recreation.
- F.** Permit conditions shall establish ownership and a plan for maintenance and long term stewardship. All costs associated with administering and maintaining open space shall be the responsibility of the applicant and subsequent landowners.

## **SECTION 10 FLOOD HAZARD REGULATIONS**

### **SECTION 10.1: LANDS TO WHICH THESE STANDARDS APPLY**

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

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

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

1. Where available, base flood elevations and floodway limits (or data from which a community can designate regulatory floodway limits) provided by the National Flood Insurance Program and in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations. District boundaries shall be determined by the Zoning Administrator. Appeals with respect to the district boundaries can be made to the Board of Adjustment in accordance with § 807.
2. In Special Flood Hazard Areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, it shall be the responsibility of the applicant to develop the base flood elevation at the site using data provided by FEMA or available from State or Federal agencies.
3. In Special Flood Hazard Areas where floodways and/or Base Flood Elevations have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the water surface elevation of the base flood more than 1.00 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer.

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

### **SECTION 10.2: DEVELOPMENT PERMITS IN THE FLOOD HAZARD OVERLAY DISTRICT**

A permit is required for all development within the Special Flood Hazard Area. For the purposes of this Section, development is defined as any man-made change to improved or

unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials in accordance with Title 44 CFR 59.1.

**A. Within the Floodway:**

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

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

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

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

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

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

**SECTION 10.3: APPLICATION REQUIREMENTS**

**A.** In addition to the application requirements in Article III, applications for development within the Flood Hazard Area Overlay District shall also include the following information:

1. the location, on the site development plan, and associated elevations of all structures, roads, and water supply and wastewater facilities in relation to the channel, floodway, and base flood elevations;

2. a completed FEMA “Elevation Certificate” prepared by a registered surveyor, engineer, architect or other official authorized by the state to certify building elevations, for any building constructed after the publication of the town’s Flood Insurance Rate Maps;
3. where flood-proofing is proposed (as allowed only for nonresidential buildings), a completed FEMA “Flood-proofing Certificate” prepared by a registered professional engineer or architect who is authorized by the state to certify flood-proofing design and construction;
4. a hydraulic and hydro-geologic analysis for any development located within the floodway; and
5. a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

**B.** In accordance with § 4424 (2)(D) of the Act, no zoning permit for new construction or substantial improvement of land in the Flood Hazard District shall be issued until:

1. a copy of the application is mailed or delivered by the Zoning Administrator or by the Board of Adjustment, to the Agency of Natural Resources; and
2. either 30 days elapse following the mailing or the Agency of Natural Resources delivers comments on the application.

Any permit issued for development in the Special Flood Hazard Area will require that all other necessary permits from State or Federal Agencies have been received before work may begin.

**C.** Proposals for development within the Special Flood Hazard Area must be submitted by the Zoning Administrator or appropriate municipal panel to the Vermont Agency of Natural Resources for comment in accordance with 24 V.S.A. §4424(D). A zoning application shall not be considered complete until such comments have been received or 30 days has elapsed since the application was submitted, whichever is sooner.

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

## **SECTION 10.4: FLOOD HAZARD AREA DEVELOPMENT STANDARDS**

**A.** All Development:

1. All development in the Special Flood Hazard areas shall be reasonably safe from flooding and:
2. Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood;
3. Constructed with materials resistant to flood damage;
4. Constructed by methods and practices that minimize flood damage; and

5. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

**B. Residential Development:**

1. New construction and existing buildings to be substantially improved that are located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation.
2. Manufactured homes to be placed and existing manufactured homes to be substantially improved that are:
  - located in a new manufactured home park or subdivision, outside of a manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in a manufactured home park or subdivision which has incurred substantial damage from a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to no less than one foot above the base flood elevation<sup>3</sup> and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement during the occurrence of the base flood.
  - located in an existing manufactured home park, where elevating a replacement home to or above base flood elevation is not possible, the lowest floor shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 48 inches in height above grade<sup>4</sup> and be securely anchored to an adequately anchored system to resist floatation, collapse, and lateral movement.

**C. Non-residential Development:**

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

**D. Subdivisions:**

1. New subdivision developments (including planned unit developments manufactured home parks) of more than 5 acres or 50 lots, whichever is less, shall:
  - Include base flood elevation data
  - Minimize flood damage within the flood-prone area,

- Locate and construct public utilities and facilities, such as sewer, gas, electrical, and water systems, to minimize or eliminate flood damage, and
- Provide adequate drainage is provided to reduce exposure to flood hazards.

**E. Enclosed Areas Below the Lowest Floor:**

1. Enclosed areas below the lowest floor which are subject to flooding shall be used solely for parking of vehicles, building access, or storage.
2. New construction and existing buildings to be substantially improved with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
3. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

**F. Recreational Vehicles:** Recreational Vehicles placed on sites with special flood hazard areas shall either:

1. be on the site for fewer than 180 consecutive days,
2. be fully licensed and ready for highway use, or
3. be permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in section B.2(b).

**G. Accessory Structures:** A small accessory building that represents a minimal investment need not be elevated to the base flood elevation provided the structure meets the following requirements:

1. The structure must only be used for parking or storage,
2. The structure must have the required openings to allow floodwaters in and out,
3. The structure must be constructed using flood resistant materials below the Base Flood Elevation,
4. The structure must be adequately anchored to resist flotation, collapse, and lateral movement, and
5. All building utility equipment including electrical and heating must be elevated or floodproofed.

**H. Water Supply Systems:** New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

**I. Sanitary Sewage Systems:** New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

**J. On-Site Waste Disposal Systems:** On-site wastewater disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

**K. Watercourse Carrying Capacity:** The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.

**SECTION 10.5: STANDARDS FOR REVIEW OF NONCONFORMING STRUCTURES**

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

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

**SECTION 10.6: VARIANCES TO THE DEVELOPMENT STANDARDS**

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

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



### **SECTION 10.7: RECORDING REQUIREMENTS**

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

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

### **SECTION 10.8: VIOLATION OF FLOOD HAZARD AREA REGULATIONS**

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

### **SECTION 10.9: FLOOD HAZARD DEFINITIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

available in paper, pdf, or Geographic Information System formats as a Digital Flood Insurance Rate Map (DFIRM).

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

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

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

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

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

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

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

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

**MANUFACTURED HOME:** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when

attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

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

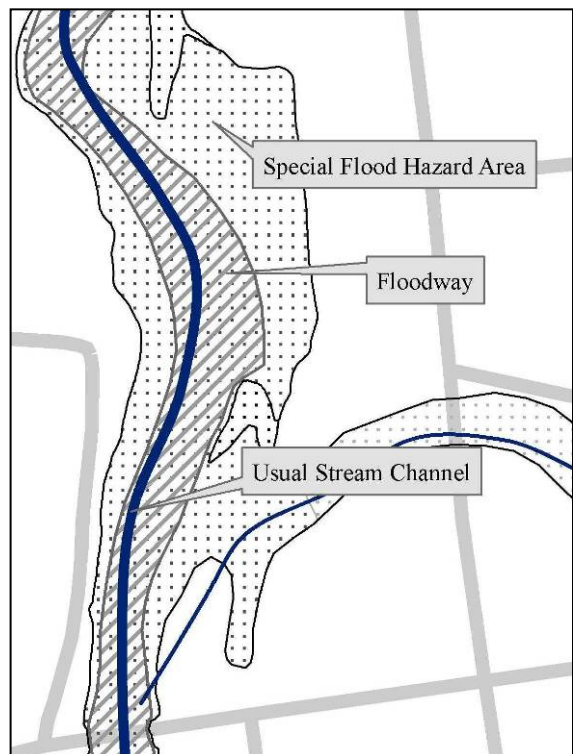
**MINOR IMPROVEMENT:** Any repairs, reconstruction, or improvement of a structure (other than customary maintenance), the cost of which is less than fifty (50) percent of the market value of the existing structure.

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

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

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

**SPECIAL FLOOD HAZARD AREA:** The floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. For purposes of these regulations, the term “area of special flood hazard” is synonymous in meaning with the phrase “special flood hazard area”. This area is usually labeled Zone A, AO, AH, AE, or A1-30 in the most current flood insurance studies and on the maps published by the Federal Emergency Management Agency. Maps of this area are available for viewing in the town office or online from the



FEMA Map Service Center: [msc.fema.gov](http://msc.fema.gov). Base flood elevations have not been determined in Zone A where the flood risk has been mapped by approximate methods. Base flood elevations are shown at selected intervals on maps of Special Flood Hazard Areas that are determined by detailed methods. Please note, where floodways have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps.

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

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

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

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

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

## **SECTION 11 DEFINITIONS**

Definitions contained in Chapter 91, Vermont Statutes Annotated, shall be applicable throughout these regulations. When not inconsistent with the context, words used in the present tense include the future, and words in plural number include the singular number, and words in the singular number include the plural number. The word “shall” is mandatory and not merely directory. The word “person” includes a firm, association, corporation, partnership, company or other organization, as well as an individual. The word “lot” includes the words parcel or plot. The words “used” or “occupied” include the words intended, designed, or arranged to be used or occupied.

**ACCESSORY USE/STRUCTURE:** A use or structure that is incidental and subordinate to the principle use or structure located on the same lot, such as patios, porches, garages, tool sheds, personal solar, wind, and hydro energy systems, and the like. A structure used for dwelling purposes shall not be considered an accessory use except in the case of an operating farm where a farmhouse and quarters for farm laborers may be considered an accessory to the agricultural use.

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

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

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

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

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

**AGRICULTURAL USE:** Use that includes cultivating the soil and producing crops or raising livestock for the purpose of economic gain, including the sale of farm crops, horticultural products, or livestock products raised on the property, but not including slaughter houses. Agricultural use does not include silvicultural use.

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

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

**BUILDING:** A structure used for the shelter or accommodation of persons, animals, goods, or equipment, which has a roof supported by columns or walls. Within the flood hazard area overlay district, this definition also includes a gas or liquid storage tank that is principally above ground or any structure not readily moveable consisting of a roof supported by columns or walls intended for the shelter or enclosure of persons, animals, or personal property, or a gas or liquid storage tank that is principally above ground.

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

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

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

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

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

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

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

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

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

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

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

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

**CONGREGATE HOUSING:** A form of housing usually provided for elderly or partially disabled individuals that provides individual dwelling units, which may or may not contain cooking facilities and that also provides common facilities for use by all residents. Congregate Housing shall not include development that meets the definition of Group Home.

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

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

**DEVELOPMENT:** See Land Development.

**DWELLING:** A building designed or used as the seasonal or permanent living quarters for one or more families (includes camps). For purposes of this definition a family shall mean one or more persons living as a household (dwelling) unit, but not including individuals or groups occupying rooming or boarding houses, camps, clubs, motels, or hotels. A group or community care home serving not more than six (6) persons who are aged, developmentally disabled, or physically handicapped (i.e. State license Class F, or G, Group Homes) shall be considered a single family dwelling (and shall be regulated in the same manner as a single family dwelling).

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

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

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



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

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

**ESSENTIAL PUBLIC SERVICES:** Includes the erection, construction and maintenance by public utilities, municipal or other government agencies or private groups of “local consumer” power poles, distribution lines, facilities for the enhancement of fire, police safety, and health services to the town, including alarm systems or similar equipment and accessories necessary for the furnishing of adequate services for the general public welfare.

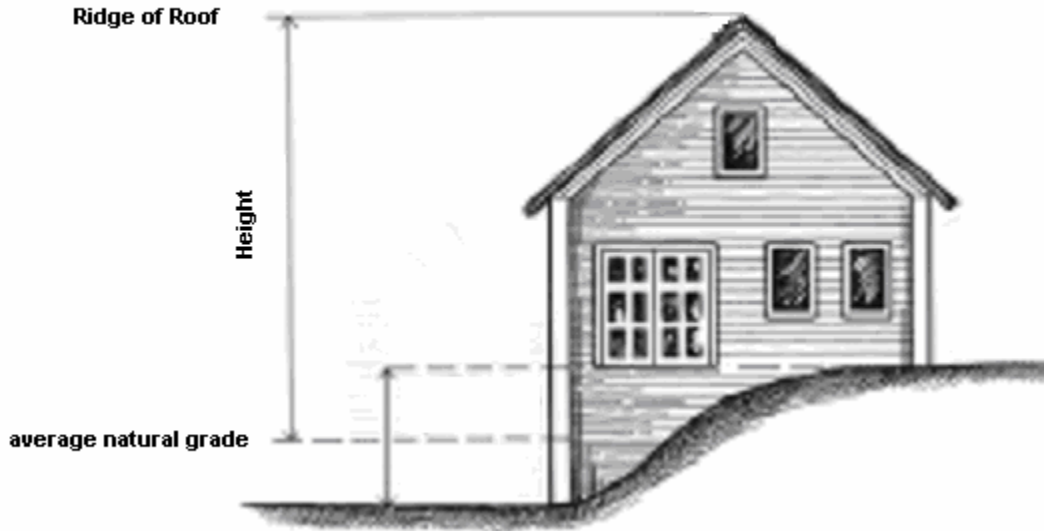
**EXCAVATION:** Any breaking of ground and extraction or movement of earth or rock, or any alteration of existing drainage patterns that substantially affects adjacent properties. Common agricultural tillage, ground care, gardening, and excavation in cemeteries are not included in this definition and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

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

**FRONTAGE:** The boundary of a lot on an improved street, road, or other legally approved access. For purposes of this Bylaw, required frontage shall be the access to the property, lot, or parcel.

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

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



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

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

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

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

- the Town of Bakersfield or an adjoining municipality
- a person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under this Bylaw, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan or regulations of the municipality
- any ten (10) voters or property owners within the municipality who, by signed petition to the appropriate town board, allege that any relief requested by a person under this section, if granted, will not be in compliance with the policies, purposes or terms of the plan or regulations of the municipality
- any department or administrative subdivision of the state owning property or any interest therein within the municipality or adjoining municipality, and the Vermont Agency of Commerce and Community Development.

**LAND DEVELOPMENT:** The division of a parcel into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or

other structure; any mining, excavation or landfill; or any change in the use of any building or other structure or extension of use of land.

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

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

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

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

**MINIMUM LOT SIZE:** The smallest lot area on which any land or building development, construction, alteration, addition to an existing structure, or change in use is permitted if also in conformance with all other provisions of this Bylaw.

**MINOR SUBDIVISION:** The subdivision of a single lot into 2 lots, amendments to an approved subdivision plan, or boundary line adjustments.

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

**MOBILE HOME** (Statutory Definition, 10 V.S.A. § 6201(1)): A structure or type of manufactured home that is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation, includes plumbing, heating, cooling, and electrical systems, and is:

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

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

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

**MOTOR VEHICLE & EQUIPMENT SALES & SERVICE:** An establishment providing sales and major servicing of automobiles, trucks, farm and construction equipment, and other motorized vehicles, including dealerships, body shops, vehicle and equipment repair shops, mobile home and recreational vehicle sales and service establishments, and the like.

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

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

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

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

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

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

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

1. tracts or lots of land that are divided by State or municipal highway rights-of-way or surface waters with a drainage area greater than 10 square miles shall not be deemed contiguous;
2. tracts or lots of land that were acquired by their owners with the same boundaries with which they are to be conveyed shall not be deemed contiguous to any other parcel owned by that person, so long as they conform to the requirements for the district in which they are located; and

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

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

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

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

**PLAT:** A site development plan map including all the information required and prepared for filing with the Town Clerk.

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

**PRINCIPAL STRUCTURE/USE:** A structure, or use, directly involved with the primary purpose of ownership of a particular lot.

**PUBLIC (COMMUNITY) FACILITIES:** , including educational, water supply, sewage disposal, fire protection, police protection, government administration, and like facilities.

**PUBLIC FACILITIES:** Those facilities provided for and/or available to the residents of the Town including facilities in use by any municipal, State or Federal Government, public utility, or other quasi-public institution, such as buildings, correctional institutions, power generation facilities, electric, gas, oil and similar transmission facilities, water supply and sewage treatment facilities, fire protection and police protection, and including public and private schools or other educational institutions. Major public facilities are exempt from municipal zoning.

**RECREATIONAL VEHICLE:** A vehicle that is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use. A Recreational Vehicle is in no way included under the Mobile Home definition. A Recreational Vehicle must be registered for use on the road and must be moved from the campsite at least once in any 120-day period.

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

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

**RIGHT-OF-WAY, PRIVATE:** A legally accepted right of a property owner to cross the property(ies) of other(s) for ingress or egress to his/her property. For purposes of This Bylaw, unless stipulated by deed, private right-of-way shall not be interpreted as conferring to the property owner having right-of-way the right to effectively convert a private right-of-way to a public right-of-way, by subdivision.

**RINGELMANN CHART:** A device for determining whether emissions of smoke are within limits or standards of permissibility. The chart is available from the US Department of Interior, Bureau of Mines. The chart is available online at <http://www.cdc.gov/niosh/mining/pubs/pdfs/ic8333.pdf>

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

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

**SALVAGE YARD:** Land used for the outdoor collection, storage, or sale of waste metal or other discarded materials, or for the collection, wrecking, dismantling, storage, salvage, or sale of machinery, or vehicles that are not inspected and not in operating condition (vehicles used in farm operations exempt). If an area in excess of two hundred (200) square feet or visible from any portion of a public highway is so used, it shall be deemed a "salvage yard." However, the term does not include a private garbage dump or a sanitary landfill that is in compliance with § 2202 of the Act and the regulations of the Secretary of Human Services.

**SENIOR HOUSING:** Housing that is restricted, by easement or other legal mechanism, to occupancy by individuals over the age of 55.

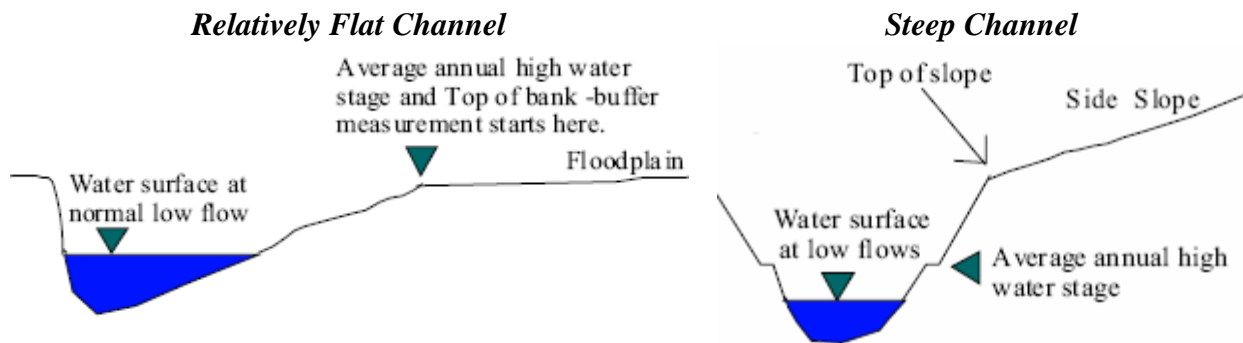
**SETBACK:** The perpendicular distance from a road, lot line, boundary or other delineated feature (e.g., a stream bank or channel, shoreline, or wetland area), to the nearest part of a building, structure, or parking area on the premises. In the case of a public highway, the distance shall be measured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

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

**SOCIAL SERVICES:** Includes medical clinics, convalescent homes, halfway houses, and similar human rehabilitation facilities, and group or community care homes serving more than eight (8) persons.

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

**STREAM SETBACK:** A setback shall be required from all streams as mapped in the Vermont Hydrography Dataset Surface Waters 1:5000, which are generally represented on the Bakersfield Official Zoning Map. In a relatively flat stream channel, this setback shall be measured from the top of the stream bank where an abrupt change in slope is evident and 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. When the stream is in a steep valley or has become incised, the setback shall be measured from the top of the slope at the break between the stream channel and the side slope or the abandoned floodplain.



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

**SURVEY:** A drawing illustrating locations, distances and angles to fully describe lots, parcels, etc. for recording by a Town Clerk in accordance with all applicable statutes and regulations of the State of Vermont.

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

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

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

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

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



