Braintree Vermont Unified Bylaw

DRAFT

Prepared by the Braintree Planning Commission
with assistance from the
Two Rivers-Ottauquechee Regional Commission

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1. General Provisions

1.1 Introduction

The Planning Commission has prepared this Bylaw to enable the Town of Braintree to have greater control implementing the Town Plan, while providing the minimum amount of regulation necessary to achieve that purpose. Any land use that was legal prior to the adoption of this Bylaw may be continued. This Bylaw does not regulate some uses, such as farming and forestry that are exempted by Vermont law. Many new uses will simply require an administrative permit. This revision was undertaken as an effort to simplify Braintree's land use regulations and make them more user-friendly.

1.2 Enactment and Effective Date

This Bylaw is enacted by the Town of Braintree in accordance with current Vermont statutes (V.S.A. Title 24, Chapter 117) to further the purposes of the Town Plan and shall be effective upon adoption.

1.3 Existing Land Uses – No Permit Needed

A permit or approval shall not be required for any development which has lawfully begun, or within which a use has been lawfully established, prior to the adoption of this Bylaw. This provision shall also apply to any subdivision that has received a state Subdivision Approval and filed a plat.

1.4 Title

This Bylaw shall be known and cited as the Town of Braintree Unified Bylaw.

1.5 Purposes of This Bylaw

Braintree is a beautiful, scenic rural and village community that provides the opportunity of a lifestyle valued by its citizens. The citizens of Braintree desire to preserve that lifestyle through regulations that provide for growth in a manner that will sustain and protect the rural and village environment that supports it. Therefore it is the goal of this Unified Bylaw:

- To promote and preserve a safe, healthy, pleasant and manageable environment;
- To preserve Braintree's rural character and conserve Braintree's natural, scenic, historic and cultural resources by maintaining the protection of agricultural, forest, wetlands, soils, water, natural features and open space, giving first priority to agricultural and forest uses of suitable land and encouraging their efficient management while discouraging the conversion of prime agricultural and forest lands to other uses;

- To locate future residential, commercial, recreational and public and semi-public facilities appropriately;
- To protect scenic roads, ridgelines and vistas;
- To preserve open space and provide a sound economic basis for its maintenance;
- To ensure that the rate of growth does not exceed the ability of Braintree and the area to provide facilities and services.

1.6 Administrative Officer (AO)

An Administrative Officer shall be nominated by the Planning Commission and appointed by the Selectboard to administer this Bylaw. The Administrator shall process applications, maintain records, issue and post permits, and perform other tasks as may be necessary to carry out the provisions of this Bylaw.

1.7 Development Review Board (DRB)

There is hereby established a Development Review Board, some or all of whose members may also be members of the Planning Commission. The Development Review Board shall consist of not less than three, nor more than nine, members appointed by the Selectboard for staggered terms of three years. Any appointment to fill a vacancy shall be for the unexpired term. The Board shall be charged with the proper interpretation of this Bylaw, including the following:

- To hear and rule on appeals concerning any order, requirement, decision, or determination made by the Administrative Officer.
- To hear and approve or deny a request for a waiver, variance, change to a non-conforming use, Conditional Use Approval, or request for an Administrative Permit

1.8 Severability

If any provision of this Bylaw is held to be invalid, such decision shall not affect the validity of the Bylaw as a whole or any part thereof other than the part held to be invalid.

1.9 Precedence

The provisions of this Bylaw shall include the minimum requirements necessary for the promotion of the public health, safety, comfort, convenience and general welfare. Whenever this Bylaw imposes a greater restriction upon the use of a structure or land than is required by any other statute, bylaw, rule, permit, easement or agreement, the provisions of this Bylaw shall control.

1.10 Status of Prior Regulations

This Bylaw, upon date of adoption or amendment, shall replace in its entirety the Braintree Zoning Ordinance and Braintree Subdivision Regulations in effect prior to that date.

2. Application of this Bylaw

2.1 Administrative Permit Required

Except where exempted under this Bylaw, no person shall undertake the following without a permit as provided for in this Bylaw:

- the division of a parcel into two or more parcels;
- the combination of parcels;
- the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure;
- any mining, excavation or fill;
- the construction of a road or utility;
- any change in the use of any building or other structure, or land; and
- any development in the Flood Hazard Overlay District (see 4.11)

You need a permit!

Just because a use or type of development is "permitted" it does not mean you don't need a permit. You do!

Permits allow the town to track development throughout town and to be aware of any potential health or safety hazards that might exist.

Some uses are exempted from the permitting process by statute or by the town. See section 2.2 for more information.

If you are unsure whether or not you need a permit, contact the Braintree Administrative Officer.

Unless otherwise specifically exempted, no division of a parcel of land whether by sale, gift, lease, or other instrument; or by the filing of a plat in the Town Land Records, where the act creates two or more lots may take place without an administrative permit after the effective date of this Bylaw.

2.1.1 Start of Development

Development begins with sitework incidental to construction, and for some projects how one is proposing to alter the landscape with activities such as land clearing, tree-cutting, filling, or grading is part of the review. Approvals may include requirements to retain features or vegetation. Therefore, all applicants should check with the Administrative Officer prior to undertaking any sitework to see if it will be a regulated part of a development. Also applicants are reminded that any project that disturbs more than 1 acre of land requires a stormwater construction permit from the state, and any project creating more than 1 acre of impervious surface (including gravel roads or parking), or that qualifies as an industrial use, is required by the state to have an operational stormwater permit.

2.1.2 Expiration of Permit

All projects, as authorized by an Administrative Permit, shall be commenced within a period of two years unless construction has been delayed by litigation to secure other permits or approvals. A permit extension can be requested from the Administrative Officer for an additional two years but must be requested and shall be granted at least 30

days prior to the expiration of the Administrative Permit. Projects not commenced by the time of expiration of an Administrative Permit must reapply for a new permit and any other necessary approvals.

2.2 Uses Exempt from This Bylaw

Exemption from this Bylaw does not necessarily mean that no permit at all is needed. Other regulations and state permits may still apply. For example, the addition of a bedroom(s) may require a state wastewater permit. The Administrative Officer (AO) can help people find out about any other permits needed (see also section 5.3).

An Administrative Permit under this Bylaw shall not be required for the following:

- A single on-premise, non-illuminated outdoor sign no larger than 16 square feet for a non-residential use.

Outside of the Floodplain Overlay District, the following land developments occurring after the date of adoption of this Bylaw are exempt from review under this Bylaw, however they still must comply with setback requirements and general standards of the district in which they are located. See the definitions section for how to measure setbacks for structures.

1. Normal maintenance and repair of an existing building or structure that does not result in any change to the footprint or height of a building or structure, or change in use;
2. Public auctions, garage sales, or yard sales not exceeding four (4) consecutive days or more than ten (10) days in a calendar year;
3. Required agricultural practices (RAPs), including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets, in accordance with the Act [§4413(d)]. Written notification, including a sketch plan showing structure setback distances from road rights-of-way, property lines, and surface waters shall be submitted to the Administrative Officer prior to any construction, as required for AAPs. **Such structures shall meet all**

Is my farm structure exempt?

In order a farm structure to be considered exempt, the structure must conform to the Secretary of Agriculture's definition of "farming use" by meeting one or more of the following criteria:

(a) is used in connection with the sale of $1000 or more of agricultural products in a normal year; or

(b) is used in connection with the raising, feeding, and management of at least the following number of adult animals: four equines; five cattle or American bison; fifteen swine; fifteen goats; fifteen sheep; fifteen fallow deer; fifteen red deer; fifty turkeys; fifty geese; one-hundred laying hens; two-hundred and fifty broilers, pheasant, Chukar partridge, or Coturnix quail; three camelids; four ratites (ostriches, rheas, and emus); thirty rabbits; one hundred ducks; or one-thousand pounds of cultured trout; or

(c) is used by a farmer filing with the Internal Revenue Service a 1040 (F) income tax statement in at least one of the past two years; or

(d) is on a farm with a business and farm management plan approved by the Secretary.

If you do not meet at least **one** of these criteria, your structure is NOT exempt from the permitting process or regulations contained within this Bylaw. For more information, contact the Vermont Agency of Agriculture.

setback requirements under these regulations, unless specifically waived by the Secretary of Agriculture.

4. Exempt or temporary signs;
5. Public utility poles and fixtures;
6. Fences or walls less than or equal to five (5) feet in height and located outside the highway right-of-way;
7. Structures without water hook-ups, for temporary or intermittent occupancy such as tents or camper trailers or recreational vehicles shall either be on site for fewer than 180 consecutive days within a calendar year or be fully licensed and ready for immediate use;
8. Fuel or propane storage tanks not used for commercial purposes;
9. Work incidental to the development of non-commercial trails;
10. Removal of earth resources incidental to construction of a building, access to a lot, public road construction, or the operation of a cemetery.
11. Replacement or repair of an existing structure or building damaged by fire or other disaster, provided that the structure or building is no greater in any dimension and is within the original footprint, and that reconstruction begins within two years of the date of damage.
12. Box trailers, storage containers, and other means of storage which are in compliance with setbacks and are temporary (not exceeding 6 consecutive months).
13. Registered motor homes, campers and travel trailers used for temporary habitation (not exceeding 6 consecutive months within a calendar year), provided that they are placed in compliance with setbacks and conform to all applicable Town ordinances and state requirements.
14. Ponds under 1 acre and that are not constructed in streams or in the Floodplain Overlay District.
15. Public utility power generating plants and transmission facilities, or telecommunications facilities regulated under 30 V.S.A. § 248.
16. Placement of antennae used to transmit, receive, or transmit and receive communications signals if the aggregate area of the largest faces of the antennae is not more than eight square feet, and if the antennae and any mast support does not extend more than 12 feet above the roof of that portion of the building to which the mast is attached.
17. Any use or structure not clearly regulated by this Bylaw and determined by the Administrative Officer to be of such a minimal nature as to have no, or only a negligible (de minimus) impact on the property and surrounding land uses, and to be in conformance with the Town Plan. (Such a decision is appealable to the DRB.)
18. Hunting, fishing, and trapping as specified under 24 V.S.A §2295 on private or public land. This does not include facilities supporting such activities, such as firing ranges or rod and gun clubs, which for the purposes of these regulations are defined as outdoor recreation facilities.
19. One accessory dwelling unit located entirely within a single-unit dwelling, so long as the building footprint (excepting steps/new entryway) and number of bedrooms is unchanged.

2.3 Limitations on Regulation under this Bylaw

Notwithstanding any other provision of this Bylaw, the following uses may be regulated under this Bylaw 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:

1. State- or community owned and operated institutions and facilities.
2. Public and private schools and other educational institutions certified by the state department of education.
3. Churches and other places of worship, convents, and parish houses.
4. Public and private hospitals.
5. Regional solid waste management facilities certified under 10 V.S.A. chapter 159.
6. Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.
7. Emergency shelters (daily or seasonal hours of operation may not be regulated).
8. Hotels and motels converted to permanently affordable housing developments.

2.4 Certificate of Occupancy

In order that there be a determination that all buildings hereafter altered, enlarged, moved or constructed and all uses of land and structures are in accordance with the provisions of the Administrative Permit authorizing such activity, a Certificate of Occupancy shall be required prior to the use or occupation of any land or building or part thereof (excepting accessory buildings or structures).

A Certificate of Occupancy shall be granted or denied within fourteen (14) days after written notice of completion is submitted by the applicant to the Administrative Officer, and shall remain in effect as long as such building or use is in compliance with the standards and conditions authorized by the Administrative Permit. A Certificate of Occupancy shall be issued by the Administrative Officer upon determination that the building or use authorized by the Administrative Permit is in substantial compliance with the standards and conditions of the permit, this Unified Bylaw and is in compliance with the state commercial or residential building energy standards. The Applicant shall have the right to occupy the premises if the Administrative Officer does not respond within the fourteen (14) day period. But, this shall not be conclusive evidence that the premises comply with the provisions of these Regulations.

If the Administrative Officer, after such final inspection, refuses to issue a Certificate of Occupancy, he or she shall state the reason for such in writing and immediately give notice by certified mail to the applicant at the address indicated on the application. Appeals from decisions of the Administrative Officer shall be taken to the Development Review Board.

2.5 Referral to State Agency

1. In accordance with Section 4424 of Title 24, no Permit for the development of land in special flood hazard areas, regulated river corridor or other designated hazard area shall be issued by the Administrative Officer prior to the expiration of a period of 30 days following the submission of the application per section 5.2 of this bylaw.

3. General Regulations

3.1 Nonconforming/Existing Small Lots

3.1.1 Rights of Nonconforming Lots

Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and was in existence on the date of enactment of any bylaw, including an interim bylaw, may be developed, upon obtaining the required permits, for the purposes permitted in the zoning district in which it is located, even though that lot no longer conforms to the minimum lot size requirements of the new bylaw or interim bylaw, and except where:

1. the lot is less than one-eighth acre in area; or
2. has a width or depth dimension of less than 40 feet.

3.1.2 Merger of Nonconforming Lots

If a nonconforming lot subsequently comes under common ownership with one or more contiguous lots, the lot shall be deemed merged with the contiguous lot(s), for the purpose of these regulations except that the lot shall not be deemed merged and may be separately conveyed if:

1. the lots are conveyed in their preexisting, nonconforming configuration; and
2. on the effective date of these regulations, each lot had been developed with a water supply and wastewater disposal system; and
3. at the time of transfer, each water supply and wastewater disposal system is functioning in an acceptable manner; and
4. the instruments of conveyance create appropriate easements on each lot for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in Title 10 V.S.A. chapter 64.

3.1.3 Subsequent System Failure

If, subsequent to conveyance as authorized under subsection 3.1.2 above, a wastewater system fails, the owner shall be required to obtain from the Agency of Natural Resources, a wastewater permit or certification that the system has been modified or replaced and no longer constitutes a failed system. The owner shall file a copy of the wastewater permit or certification with the Administrative Officer and file with the Town Clerk for recording in the land records.

3.2 Required Frontage On, Or Access To, Public Roads

No land development may be permitted on lots which do not either have frontage on a public road or, with the approval of the Development Review Board, access to such a road by either a private road or driveway.

Any new private road or driveway that accesses a Town highway or State highway will require an Access Permit from the Selectboard or the Agency of Transportation, respectively, as well as a zoning permit per section 3.20 of this bylaw. Such permits must also conform to the Town and Regional Plan in effect.

In situations where a lot is to be developed that does not have frontage on a public road, the front setback shall be measured from the centerline of the right-of-way or lot line whichever is closest to the structure or use.

3.3 Lots in Two Zoning Districts

If a lot lies in more than one district, each portion of the lot shall be governed by the requirements of the district in which such portion falls. When lots only have a complying portion in one district, the entire lot shall be treated as being in that district. Lots without conforming dimensions in any district will be treated as being entirely in the district with the majority of the lot acreage.

3.4 Multiple Uses of Lots

Two or more uses, principal or accessory, may exist on the same lot so long as setback requirements and all other applicable standards, are met for all uses. In such cases, all standards relevant to each of the uses in the building are applied, and a single zoning permit may be issued for all proposed uses.

All uses occurring on a lot shall be subject to the permitting requirements specific to each use in the underlying zoning district as well as in any applicable overlay districts.

Examples of mixed uses include an apartment over retail, or a single unit dwelling on the same lot as a multi-unit dwelling.

3.5 Access and Safety

In reviewing a site plan, the DRB may require changes or additions to yards, driveways, driveway entrances and exits, landscaping, and the location and height of buildings and enclosures to insure safety, to minimize traffic difficulties, and to safeguard adjacent properties.

3.6 Abandonment of Structures

Within six months after any building or structure has collapsed, been destroyed or demolished, deemed uninhabitable by the Health Officers, or deemed a fire danger by the Fire Chief; or which, due to deterioration or disrepair, lacks any major structural element customary to that building type, such as a roof, windows, water supply, etc.; shall be considered abandoned for the purposes of these regulations. If a building or structure is deemed abandoned, the Development Review Board, following a warned public hearing and finding public safety and health threatened, may require the owner of the property to remove all structural materials from the site, fill to grade any remaining excavations and screen or landscape the property.

3.7 Minimum Off-Street Parking Requirements

No land, building, or structure shall be used or substantially changed in use unless there is provided off street parking that meets the applicable minimum standard set forth below. All non-residential parking lots shall require Site Plan Approval from the DRB prior to issuance of an Administrative Permit.

Required parking facilities shall be located on the same lot as the building or other use which they serve, but may be located elsewhere, subject to approval of the DRB. In the case of mixed uses occupying the same building or lot, the total requirements for off-street parking areas shall be the sum of the standards for the various uses computed separately. All parking areas for commercial or industrial uses shall be landscaped or screened where highly visible from a public road or adjacent to a residential use or structure. Required spaces are:

1. Single-unit residential and ADUs - one parking space per dwelling unit.
2. Duplexes and multi-unit dwellings – 1.5 parking spaces per dwelling unit.
3. Places of public assembly (including but not limited to community centers and religious institutions) - shall have one parking space for every three seats or rated capacity of the facility.
4. Commercial Uses - shall have one parking space for every company-owned business vehicle and employee, plus one parking space for every two hundred square feet of floor area.
5. Industrial Uses - shall have one parking space for every company owned business vehicle and employee.
6. Schools - one parking space for every six students of the rated capacity of the school.

3.7.1 Shared Parking

Two or more uses may provide the required parking in a common parking lot if the total number of spaces available meets the combined parking needs, and an easement or an agreement is provided which sets forth the terms for the availability, construction, repair and maintenance of the shared lot. The total number of spaces required in a shared lot

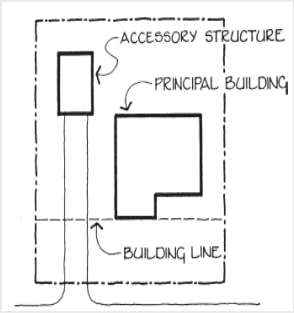
shall be reduced by the DRB under conditional use review if it can be demonstrated that the hours of peak parking need are different in each use.

3.8 More than One Principal Building Per Lot

With the exception of Planned Unit Developments, no more than two principal buildings may be placed on a lot unless such buildings and any buildings accessory to such principal buildings are positioned such that the lot is able to be subdivided into two separate and individual lots, both lots and their respective uses conforming to all applicable provisions of this Bylaw.

Principal Building

A principal building is defined as the building in which the primary or predominant use is conducted. See below:



3.9 Protection of Home Occupations

Vermont law and this Bylaw provide the right of a resident to use a minor portion of the dwelling for an occupation which is customary in a residential area and does not change the character of the area. An Administrative Permit for a home occupation shall be granted by the Administrative Officer upon meeting all of the following standards:

Home Occupations vs. Home Enterprise

While state Statute requires that home occupations be allowed, it does not do so for home occupations that have grown beyond the criteria listed in 3.9 of this ordinance.

To allow for the growth of home occupations, the Braintree Unified Bylaw has a category called "Home Enterprise" (see 6.10.3). All Home Enterprises are a conditional use and therefore require review from the DRB.

A permit is required for home occupations. See the AO for more information.

1. The conduct of the home occupation is clearly secondary to the residential use of the premises;
2. The home occupation is conducted by the resident at the residence and does not involve more than two full-time equivalent persons on the site other than the residents of the home;
3. Automobile or truck traffic resulting from the occupation will not be at a volume substantially greater than would normally be anticipated for a residential use;
4. The occupation is carried on wholly within a minor portion of the building (less than 50 % of total living area) or within a minor portion of an accessory building or structure; and
5. Other than that which is incidental to a residential use, exterior storage of equipment or materials visible to the traveling public and exterior indicators of the home occupation or obvious variations from the residential character of the principal use shall not be permitted, excepting the permissible sign and temporary exterior displays of items for sale outside of the right-of-way during business hours.

As defined in this Bylaw in section 9, Home Occupations and Home Enterprises are not the same. Home Enterprises are subject to greater regulation and are a conditional use. See section 6.10.3 for those requirements.

3.10 Outdoor Lighting

As part of its review, the Development Review Board shall evaluate the effects of outdoor lighting on the site and neighboring properties. All lights shall be directed so light is directed downwards and not into the night sky. Lighting shall be directed towards the property. Exterior lighting shall be directed or shaded so that it does not directly illuminate beyond the site boundary lines, and shall be placed to avoid glare or the creation of a traffic hazard. Lighting shall be at a level consistent with the character of the neighborhood. Any person seeking to increase or otherwise modify the level of outdoor lighting for a non-residential use shall first/ obtain an Administrative Permit.

3.11 Outdoor Signs

3.11.1 Sign Permit Requirement

An Administrative Permit is required for erection of an outdoor sign. Applications shall be submitted to the Administrative Officer and shall include such additional information as the Administrative Officer requires.

Some signs may require conditional use approval; see section 6.10.6 for more information.

3.11.2 Sign Standards

No sign shall be permitted in the Town unless it is in conformance with the following standards:

1. All signs must be well constructed and maintained in good repair and stable condition.
2. For home occupations or home enterprises, one sign of not more than six (6) square feet in area is permitted on the premises.
3. One temporary sign, not exceeding six (6) square feet in area, is permitted for advertising the sale, rental or improvement of the premises on which it is located.
4. Professional and business office buildings are limited to two (2) signs of not more than twelve (12) square feet in area for each building, and name plates of not more than two (2) square feet for each separate office.
5. The total area of the signs for each building is limited to the area computed by the ratio:
    a. Permitted Uses - 1.5 square feet of sign area is allowed for every 1.0 linear feet of building frontage as measured from end to end across that portion of the building which faces a road or other public way. If a building either does not face a road or has public access from two roads, then the frontage will be measured across the face of the building which contains the main entrance.
    b. Conditional Uses - Signs for Conditional Uses shall be sized so as to be consistent with the nature and purpose of the zone in which the use is located.

Notwithstanding the above ratio, the total area of all signs permitted for a principal commercial building shall not exceed one hundred (100) square feet. No building may have more than one (1) freestanding sign. No freestanding sign may contain more than forty (40) square feet of sign area. No freestanding sign may be more than twenty (20) feet above average grade, nor less than ten (10) feet from any property line.

The total area of all building signs per building may not exceed sixty (60) square feet. No building sign may extend above the eaves of that part and side of the building to which the sign is attached. No projecting sign and supporting structure shall be less than eleven (11) feet above walking levels or project more than five 5) feet out from a building.

All signs shall be subject to the following additional conditions:

1. No sign shall be permitted which prevents a clear and unobstructed view of official signs and approaching or merging traffic.

2. No sign shall be permitted which appears to direct the movement of traffic or which interferes with, imitates or resembles any official traffic, directional or route sign, signal or device.
3. No lighting of signs shall be permitted unless such lighting is shielded from the public to prevent glare or intensity that may cause a hazard.
4. No sign shall contain any moving parts, nor be illuminated internally, flashing, moving or intermittent light.
5. No sign shall contain any fluorescent type of paint or finish.
6. No sign shall be allowed which is not on the premises of the activity served by the sign.

3.11.3 Existing Signs

Nothing within this Bylaw shall require any change to signs existing prior to the effective date of this Unified Development Bylaw. Any existing sign, which is removed because the sign no longer advertises the products or services of the establishment, may only be replaced by conforming sign or signs.

3.11.4 Exempt Signs

The following signs shall be exempt from requiring a Building Permit or Conditional Use approval:

- Signs erected, maintained or administered by the Town of Braintree or the State of Vermont under Title 10, Chapter 21, whether maintained at private or public expense;
- Signs less than two (2) square feet in area, without advertising, displayed for the direction, instruction or convenience of the public, including signs which identify rest rooms, entrances and exits, hours and days of business, posted areas for "No Hunting" or "No Trespassing" or the like, provided such signs are on the premises of the activity served by such a sign.

3.12 Accessory Dwelling Units

An accessory dwelling unit (ADU) that is located within, attached, or adjacent to a single unit dwelling shall be a permitted use in all districts where single-unit dwellings are permitted, provided there is compliance with all the following:

7. The property has sufficient wastewater capacity.
8. The unit does not exceed 30 percent of the total habitable floor area of the single-unit dwelling, or 900 square feet of living area, whichever is greater.
9. Applicable setback, coverage, and parking requirements specified in the Bylaws are met.

3.13 Equal Treatment of Housing and Mobile Home Parks

This Bylaw shall not have the effect of excluding mobile homes, modular housing, or other forms of housing except as they may be excluded by the same terms and conditions of conventional housing. This Bylaw shall not have the effect of excluding mobile home parks, as defined in accordance with current Vermont statutes.

3.14 Child Care Facilities

A state registered child care facility or licensed family care home serving six or fewer full-time and four part-time children shall be considered by right to constitute an accessory use to a dwelling and is exempt from local review. Notwithstanding, a certified letter of approval from the Vermont Department of Children & Families shall be filed with the Administrative Officer.

A state registered child care facility or licensed family care home serving more than six full-time and/or four part-time children shall require Conditional Use Approval and Site Plan Approval from the DRB.

A child care facility or family care home is defined under 33 VSA § Section 3511 (2) & (7).

3.15 Residential Care or Group Homes

A residential care or group home serving not more than eight persons who have a disability, or a recovery residence serving not more than eight persons, shall be considered by right to constitute a single unit residential use of a property.

3.16 Wetlands

Proposals for a land development within 100 feet of a Vermont regulated wetland, as shown on the Advisory Map, shall be designed to provide for adequate setbacks, which shall be determined in consultation with the Vermont Agency of Natural Resources using standard wetland values. Applicants may be required to hire a qualified person to perform a wetland delineation in accordance with Vermont standards.

3.17 Stream Buffer Requirements

No structures shall be allowed within 50 feet of the top of the bank of designated permanent streams, except those that by their nature must be located near streams. No ground disturbance is allowed within 35 feet, excepting that incidental to bridge or culvert construction, or permitted bank stabilization. This provision shall apply to all rivers and streams that appear on USGS topographical maps.

3.18 Emergency Services

Land development shall be designed to ensure adequate provision of facilities necessary for emergency services. Access drives shall be designed to safely accommodate emergency vehicles. Fire ponds and/or dry hydrants may be required when determined necessary for water supply by the Randolph Fire Department.

3.19 Ancient Roads and Trails

Development shall not result in an undue adverse impact on ancient roads or trails that appear on the highway map certified annually to VTrans by the Selectboard.

3.20 Private Road and Driveway Requirements

All new or expanded private roads and driveways, whether or not intended to be taken over by the Town, shall be designed to:

a. Preserve existing public access through the property to adjoining properties or uses when in the Town's interest;

b. Logically relate to the topography so as to produce usable lots and road grades in compliance with town policies or standards without significant amounts of cut and fill; and

c. Allow safe pedestrian and/or bicycle circulation within the subdivision and to connect to town highways.

In the review of a private road or driveway, the following shall be taken into consideration: conformance with section 3.2 of this bylaw, adequacy of drainage and culvert placement, erosion control measures, emergency vehicle access, and sight distances at public road intersections.

3.20.1 All new or expanded private roads and driveways providing access to a lot from an existing public or private road must be designed as specified in the Braintree Road Specifications and meet the further requirements of this section.

3.20.2 All new or expanded driveways or private roads require a zoning permit issued by the Zoning Administrator. Proposed subdivisions shall include a private road and/or driveway plan that meets the requirements of this section.

3.20.3 All new or expanded **private roads** shall require DRB review and approval prior to issuance of a permit by the Zoning Administrator and shall meet the following standards, as well as the standards found in section 3.20.5.

1. **Minimum Right-of-way –** The minimum right-of-way shall be fifty (50) feet.

2. **Minimum Road Width –** The traveled portion of the road shall be a minimum of eighteen (18) feet in width.
3. **Maximum centerline grade** shall not exceed 12%.
4. **Road Bed –** The road bed shall be prepared, the road graded and crowned and provision for drainage made so that the road and its intersections will not be subject to erosion.
5. **Intersections –** All approaches to intersections shall have a maximum slope of three (3) percent for a minimum of fifty (50) feet from the centerline of the intersected road.

3.20.4 All new or expanded **driveways** serving no more than one lot or two principal dwelling units shall require a permit issued by the Zoning Administrator and shall meet the standards found in Section 3.20.5.

1. **Minimum road width** - The minimum road width shall be thirty (30) feet with the traveled portion being a minimum of twelve (12) feet in width.
2. **Maximum center-line grade** shall not exceed 10%.

3.20.5 All new or expanded driveways and private roads shall also meet the following criteria:

1. Emergency Vehicle Access – Driveways and private roads shall be built to allow adequate access for emergency vehicles. Applicants shall consult with the Randolph Fire Department and receive their concurrence on plans prior to approval by the Selectboard or issuance of any driveway or private road permit.

2. Turnoffs shall be provided where the Fire Department determines that road length, slope, or other conditions make passage or meeting vehicles a safety hazard.

3. Location and Design of Intersections – Intersections with existing roadways shall be as close as 90 degrees as possible. Approaches to intersections with existing roads shall be at a maximum grade of 3% for a distance of 100 feet from the edge of the travel lane. Intersections shall be located so as to provide a minimum sight stopping distance in accordance with the following standards:

Design Speed of Roadway Section (MPH)	Sight Stopping Distance (Feet)
20	*104*
25	*143*

30	*176*
35	*223*
40	*263*
50	*369*

For any new private road or driveway requiring DRB review, The DRB may restrict the frequency of access or impose special intersections design requirements along any Town highway.

4. **Dead End Roads:** All dead end roads in excess of 800 feet in length shall terminate in a turn-around having a minimum inside radius of 30 feet and a travel lane width of 20 feet, unless otherwise required for emergency vehicle access.

5. **Curb Cuts on Existing Public Roads for Subdivisions:** The total number of curb cuts accessing a Town or State highway shall not exceed one (1) for each side of the road for each 500 feet of a continuous length of road frontage of a parcel. This regulation will not apply to farm access roads for agricultural or temporary forestry purposes. In calculating the number of curb cuts permitted, any curb cut in existence prior to this subdivision shall be included. Subsequent subdivision shall not create a right to construct any curb cuts in addition to those permitted above.

6. **Road Maintenance**: The maintenance of all private roads and driveways shall be the responsibility of the applicant.

3.20.6 Traffic Management Study

The DRB may require the preparation of a Traffic Management Study to quantify the traffic impacts resulting from a Conditional Use and Site Plan Review or from a Subdivision Approval and to identify necessary and appropriate mitigating measures. When warranted, the applicant shall fund the study. The DRB and the applicant shall jointly select the firm or individual preparing the study.

Such studies shall include the following information:

a. A description of the general location of the project.

b. A statement of existing traffic conditions and projected traffic conditions in five (5) years.

c. A statement comparing the operating Level of Service of the roadway(s) and/or intersection(s) in the Town with and without the proposed project(s) at the opening date of the project and in five (5) years.

d. A statement of recommendations outlining any adverse traffic impact of a proposed subdivision and the necessary improvements to provide an acceptable operating Level of Service.

Based upon review of the study and related evidence, the DRB may condition its approval to avoid or mitigate any traffic congestion or safety problems associated with the subdivision.

3.21 Effect of Road

When a lot is divided by a state or municipal highway that existed on the date of adoption of this Bylaw, or when a lot is divided by surface waters with a drainage area of greater than ten square miles, then that lot will be treated as previously subdivided under this Bylaw.

3.22 Junkyards

All junkyards are required to obtain a license to operate, establish or maintain a junkyard from the State of Vermont. The procedures for obtaining a junkyard license from the State of Vermont are those specified in 24 V.S.A. §§2261-2262, as from time to time amended.

3.23 Adaptive Reuse

The DRB is authorized to allow as a conditional use a residential use that would not otherwise be permitted in that district in terms of number of units, provided that such approval is for a reuse of an existing, large structure that is at least 10 years old. As part of the conditional use approval the DRB must find that the reuse will not create an undue adverse effect in terms of lighting, noise, or visual impact as seen from the nearest public highway compared with other residential structures in the district. An adaptive reuse structure shall be permitted to expand up to 25%, so long as the expansion results in minimal impact to the historic features and character of the structure.

See Section 10.1, Definitions: Adaptive Reuse.

3.24 Housing Conversion

This section is about converting single units and duplexes into duplexes and multi-unit dwellings. It does not involve accessory dwelling units.

i. The conversion of a single unit dwelling to a duplex shall require only a zoning permit.

ii. **For the conversion of existing single unit dwellings and duplexes.** Where the proposed conversion to a multi-unit dwelling will create an additional two or more units, the dwelling shall be permitted the same as for a multi-unit dwelling with that number of units for the district in which it is located.

iii. In cases where only one additional dwelling unit is being created, within or attached to a pre-existing duplex or three-unit dwelling, and that is located in a district that allows multi-unit dwellings, a permit may be granted by the Zoning Administrator without the need for site plan review or conditional use approval, so long as it can be determined by the Zoning Administrator that the residential structure including the additional unit meets the following requirements:

1. Minimum area and dimensional standards are met;
2. Adequate parking is provided for the new unit;
3. There is sufficient water and wastewater capacity to accommodate the new unit;
4. No new road access is being created.
5. Section iii of this provision has never previously been applied to the residential structure being permitted.

Notwithstanding other provisions of this bylaw, such permits shall require one parking space on site per unit unless the ZA determines there is adequate parking nearby.

For the purposes of this section, "*attached"* shall be defined as the following: Any expansion of the footprint of the existing structure to accommodate the additional residential unit.

4. Districts and Their Uses

4.1 Establishment of Zoning Districts and Map

For the purposes of this Bylaw, the following Districts are hereby established within the Town.

- Conservation District
- Rural District I
- Rural District II
- Village District
- Rural Scenic
- Flood Hazard Area Overlay District
- Neighborhood Residential District

4.2 Boundaries and Purposes of Districts

Districts are created to further the purposes established for them in the Town Plan. The areas and boundaries of the Districts are established as described below and shown on the Official Zoning District Map for the Town of Braintree signed by the Selectboard upon adoption and stamped with the seal of the Town Clerk, which is hereby designated and made a part of this Bylaw. This map shall remain on file with the Town and smaller copies may be made.

4.3 Interpretation of District Boundaries

If uncertainty exists with respect to the boundary of any district, the location of such boundary shall be first determined by the Administrative Officer. If the Administrative Officer cannot make such a determination, or if the applicant is not satisfied with the decision, the matter shall be referred to the Development Review Board. In making such determination, the Development Review Board may require the applicant to submit additional information. As guidance for use in their determination, district boundaries shall normally coincide with property lines, centerlines of roads, centerlines of water courses, or specific distances from such, unless otherwise noted.

4.3.1 Interpretation within the Flood Hazard Overlay District

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

If uncertainty exists with respect to the boundaries of the River Corridors, the location of the boundary shall be determined by the AO.

If the applicant disagrees with the determination made by the AO or with the river corridor as mapped, the applicant has the option to either:

a. Hire a licensed land surveyor or registered professional engineer to stake out the River Corridor boundary as mapped on the property; or,

b. Provide data as needed for ANR to update the river corridor map following the Flood Hazard Area and River Corridor Protection Procedure ("Procedure"); or

c. Request a letter of determination from ANR that the proposed development meets the Performance standard in the Procedure.

4.4 Dimensional Standards, Permitted and Conditional Uses by District

Various uses requiring an Administrative Permit, or Conditional Use Approval in addition to a permit, are listed below for each district. If a use is not listed, or exempted under 2.2, it is prohibited. Dimensional requirements must be met unless a waiver is granted. Waivers cannot be granted on types of use. Means for measurements are covered in Chapter 8 of this document.

Dimensional Standards by District

Zone	Set Back			Minimum Lot Size	Frontage Lot Width	Maximum Building Height	Maximum Coverage
	Front in feet	Rear in feet	Side in feet	in acres	in feet	in feet	% of lot
Village**	40/60	20/50	15	0.5/1	100/200	40	20%
Neighborhood Residential	40/60	20/50	15	0.5/1	100/200	40	20
Rural I	40	50	20	10	300	40	10%
Rural II	40	50	20	2	150	40	20%
Rural Scenic	70	50	20	10	300	40	10%
Conservation	70	200	150	25	400	35	1%
Flood Plain Overlay	70	50	50	2	300	45	15%

**Different dimensional standards are established for residential and non-residential uses as specified in Sections 4.8.3 and 4.8.4.

4.5 Conservation District - "CON"

4.5.1 District Purpose

It is the goal of this Bylaw to provide for the conservation of certain natural areas that have been identified as relatively undisturbed, consisting of large tracts of quality timber and serving as home for a variety of wildlife. Such areas of the community are currently not serviced and lack such facilities as roads and utilities. Generally sub-soil and slope conditions within these areas impose great limitations on extensive development. In

order to provide a fair level of community services within these areas, large amounts of public investment would be necessary. These lands should be developed at very low densities because the physical limitations in these areas are so great and difficult to overcome. Only those land uses that will not adversely affect the environmental quality of these areas should be allowed. These areas are delineated on the official zoning district map.

4.5.2 Permitted Uses in the Conservation District

The following uses may be permitted upon issuance of an Administrative Permit by the Administrative Officer:

1. Seasonal shelters (i.e. camp)
2. single unit dwellings and accessory dwelling units
3. Two unit dwellings
4. Accessory structures or uses
5. Wildlife refuges
6. Outdoor signs (see Section 3.11)
7. Home occupations (see Section 3.9)
8. Accessory on farm business*

*Subject to site plan review

4.5.3 Conditional Uses in the Conservation District

The following uses are permitted uses upon granting Conditional Use Approval by the Development Review Board and issuance of an Administrative Permit by the Administrative Officer:

1. Public and private utilities
2. Public and private outdoor recreation
3. Bed and breakfasts
4. Home enterprises (see Section 6.10.3)
5. Wireless communications facilities (see Section 6.10.4)
6. Special outdoor signs (see Section 6.10.6)
7. Planned Residential Development (PRD) (see Section 6.11)
8. Other uses upon the determination by the Board that such use is of the same general character to other uses in the District, is consistent with the purposes of the District, and is compatible with adjoining land uses.

4.5.4 Land, Area and Structural Requirements in the Conservation District

The following requirements apply to all development within the Conservation District unless specifically exempted in section 2.2.

1. Lot area minimum - 25 acres
2. Frontage or lot width minimum - 400 feet
3. Front setback minimum - 70 feet
4. Rear setback minimum - 200 feet

5. Side setback minimum - 150 feet
6. Lot depth minimum - 800 feet
7. Coverage maximum - 1%
8. Building height maximum - 40 feet with no limit for agricultural use.
9. General regulations as set forth in Section 3.

4.6 Rural District I - "RD-I"

This area includes those lands which exhibit limitations for development based principally on physical criteria, such as steeper slopes, typically more shallow soils or poor drainage characteristics. Access and proximity to existing utility services is limited or non-existent in these areas.

Based upon the physical limitations of the land and the ability of Braintree to provide high levels of service at reasonable costs, particularly road maintenance, residential development should occur at low densities in these areas. Industrial and commercial uses are not permitted. Non-intensive land uses such as agriculture, forestry, low-density residential development, and outdoor recreation are allowed in this area. These areas are delineated on the official zoning district map.

4.6.1 Permitted Uses in Rural District I

The following uses may be permitted upon the issuance of an Administrative Permit by the Administrative Officer:

1. Seasonal shelters (i.e. camp)
2. Single unit dwellings and accessory dwelling units
3. Two unit dwellings
4. Wildlife refuges
5. Outdoor signs (see Section 3.11)
6. Accessory structures or uses
7. Home occupations (see Section 3.9)
8. Accessory on farm business*

*Subject to site plan review

4.6.2 Conditional Uses in Rural District I

The following uses are permitted uses upon granting Conditional Use Approval by the Development Review Board and issuance of an Administrative Permit by the Administrative Officer:

1. Public and private utilities
2. Public and private outdoor recreation
3. Bed and breakfasts
4. Three and four unit dwellings
5. Quarrying, gravel and mineral extraction (see Section 6.10.5)
6. Home enterprises (see Section 6.10.3)

7. Public cemeteries
8. Special outdoor signs (see Section 6.10.6)
9. Wireless communications facilities (see Section 6.10.4)
10. Junkyards (see Section 6.10.1)
11. Planned Residential Development (PRD) (see Section 6.11)
12. Other uses upon the determination by the Board that such use is of the same general character to other uses in the District, is consistent with the purposes of the District, and is compatible with adjoining land uses.

4.6.3 Land, Area and Structural Requirements in Rural District I

The following requirements apply to all development within Rural District I unless specifically exempted in section 2.2.

1. Lot area minimum - 10 acres
2. Frontage or lot width minimum - 300 feet
3. Front setback minimum - 40 feet
4. Rear setback minimum - 50 feet
5. Side setback minimum - 20 feet
6. Coverage maximum - 10%
7. Building height maximum - 40 feet with no limit for agricultural use.
8. General regulations as set forth in Section 3 hereof.

4.7 Rural District II - "RD-II

Much of the land in this District borders existing State and Town highways and generally features soil and slope conditions that will provide for easier installation of on-site wastewater facilities. Residential and other compatible and complementing uses are permitted in this area. This District is intended to house the majority of the community's permanent residents. These areas are delineated on the official zoning district map.

4.7.1 Permitted Uses in the Rural District II

The following uses may be permitted upon the issuance of an Administrative Permit by the Administrative Officer:

1. Seasonal shelters (i.e. camp)
2. Single unit dwellings and accessory dwelling units
3. Two unit dwellings
4. Accessory structures or uses
5. Three and four unit dwellings*
6. Outdoor signs (see Section 3.11)
7. Home occupations (see Section 3.9)
8. Accessory on farm business*

*Subject to site plan review.

4.7.2 Conditional Uses in the Rural District II

The following uses are permitted uses upon granting Conditional Use Approval by the Development Review Board and issuance of an Administrative Permit by the Administrative Officer:

1. Public and private utilities
2. Public and private outdoor recreation
3. Bed and breakfasts
4. 5+ unit dwellings
5. Public cemeteries
6. Quarrying, gravel, and mineral extraction (see Section 6.10.5)
7. Mobile home parks (see Section 6.10.3)
8. Medical clinics
9. Public or private schools
10.
11. Religious institutions
12. Community centers or private clubs
13.
14. Light industries
15. Special outdoor signs (see Section 6.10.6)
16. Wireless communications facilities (see Section 6.10.4)
17. Home enterprises (see Section 6.10.3)
18. Junkyards (see Section 6.10.1)
19. Planned Residential Development (PRD) (see Section 6.11)
20. Other uses upon the determination by the Board that such use is of the same general character to other uses in the District, is consistent with the purposes of the District, and is compatible with adjoining land uses.

4.7.3 Land, Area and Structural Requirements in the Rural District II

The following requirements apply to all development within Rural District II unless specifically exempted in section 2.2.

1. Lot area minimum - 2 acres
2. Frontage or lot width minimum - 150 feet
3. Front setback minimum - 40 feet
4. Rear setback minimum - 50 feet
5. Side setback minimum - 20 feet
6. Coverage maximum - 20%
7. Building height maximum - 45 feet with no limit for agricultural use.
8. General regulations as set forth in Section 3 hereof.

4.7.4 Note on District Area (*or)* Lands to which this district applies

Unless otherwise noted and or limited by an Overlay District(s), the depth of the Rural District II shall be 500 feet from the centerline of a public (State and Town) highway, as shown on the Official Zoning District Map, except for the area of the RD II district South of Riford Brook Road, which has a depth of 1000’.

4.8 Village District - "VIL"

Braintree's three recognized village areas, West Braintree, South Braintree and East Braintree, are the only existing high concentration settlement areas in Braintree. In order to preserve the existing residential character of these areas and prohibit inappropriate development and rising municipal costs, a higher density standard has been established. Residential buildings or activities are the only permitted uses, however many public and private uses are conditionally permitted. These areas are delineated on the official zoning district map.

4.8.1 Permitted Uses within the Village District

The following uses may be permitted upon the issuance of an Administrative Permit by the Administrative Officer:

1. Single unit dwellings and accessory dwelling units
2. Two unit dwellings
3. Three and four unit dwellings*
4. Accessory structures or uses
5. Outdoor signs (see Section 3.11))
6. Home occupations (see Section 3.9)
7. Accessory on farm business*

*Subject to site plan review.

4.8.2 Conditional Uses within the Village District

The following uses are permitted upon granting Conditional Use Approval by the Development Review Board and the issuance of an Administrative Permit by the Administrative Officer:

1. Retail stores
2. Bed and breakfasts
3. 5+ unit dwellings
4. Public cemeteries
5. Parking facilities
6. Medical clinic
7. School
8. Religious institutions
9. Community centers
10. Commercial uses
11. Light industries
12. Private clubs
13. Home enterprises (see Section 6.10.3)
14. Special outdoor signs (see Section 6.10.6)
16. Planned Residential Development (PRD) (see Section 6.11)

17. Other uses upon the determination by the Board that such use is of the same general character to other uses in the District, is consistent with the purposes of the District, and is compatible with adjoining land uses

4.8.3 Land, Area and Structural Requirements for Residential Use within the Village District

1. Lot area minimum - 1/2 acre
2. Frontage or lot width minimum - 100 feet
3. Front setback minimum - 40 feet
4. Rear setback minimum - 20 feet
5. Side setback minimum - 15 feet
6. Coverage maximum - 20%
7. Building height maximum - 40 feet
8. General regulations as set forth in Section 3 hereof.

4.8.4 Land Area & Structural Requirements for Non-Residential Use within the Village District

1. Lot area minimum - 1 acre
2. Frontage or lot width minimum - 200 feet
3. Front setback minimum - 60 feet
4. Rear setback minimum - 50 feet
5. Side setback minimum - 15 feet
6. Coverage maximum - 20%
7. Building height maximum - 40 feet
8. General regulations as set forth in Section 3 hereof.

4.8.5 Note on District Area (*or)* Lands to which this district applies

Unless otherwise noted and or limited by an Overlay District(s), the depth of the Village District shall be 500 feet from the centerline of a public (State and Town) highway, as shown on the Official Zoning District Map, except for the following areas.

4.9 Rural Scenic District - "RS"

One of Braintree's most valuable resources is the exceptional scenic quality of some of its upland areas. The attractiveness of these areas is derived from and directly attributable to a variety of elements that make-up the land use patterns of the area. These factors, both natural and manmade, provide a rich visual experience for both residents and visitors in Braintree. Characteristics that comprise such scenic values include the mixed pattern of open spaces to wooded areas, the prominence of clear, unobstructed panoramic views of distant ridges and ravines and the non-intensive nature of the use of the land.
Another integral element comprising the scenic features of this area is the type of roads and roadsides throughout the area. These byways consist of narrow gravel roadways with

roadsides of diverse and contrasting features. These back road features, combined with sequence of openings and closings in the roadway canopy, provide an experience that is not obtainable in most areas.

Residential development in this area can only occur in a manner that serves to maintain or enhance the visual focus on important scenic features. This shall be accomplished through screening of aesthetically displeasing objects, the maintenance of visual diversity and contrast through the placement of structures which will not adversely modify the views to and from other areas. These areas are delineated on the official zoning district map.

4.9.1 Permitted Uses in the Rural Scenic District

The following uses may be permitted upon the issuance of an Administrative Permit by the Administrative Officer:

1. Seasonal shelters (i.e. camp)
2. Single unit dwellings and accessory dwelling units
3. Two unit dwellings
4. Accessory structures or uses
5. Wildlife refuges
6. Outdoor signs (see Section 3.11.)
7. Home occupations (see Section 3.9)
8. Accessory on farm business*

*Subject to site plan review

4.9.2 Conditional Uses in the Rural Scenic District

The following uses are permitted uses upon granting Conditional Use Approval by the Development Review Board and issuance of an Administrative Permit by the Administrative Officer:

1. Public or private schools
2. Bed and breakfasts
3. Religious institutions
4. Community centers
5. Public cemeteries
6. Public and private recreation
7. Special outdoor signs (see Section 6.10.6)
8. Home enterprises (see Section 6.10.3)
9. Other uses upon the determination by the Board that such use is of the same general character to other uses in the District, is consistent with the purposes of the District, and is compatible with adjoining land uses

4.9.3 Land, Area and Structural Requirements in the Rural Scenic District

1. Lot area minimum - 10 acres

2. Frontage or lot width minimum - 400 feet
3. Front setback minimum - 70 feet
4. Rear setback minimum - 50 feet
5. Side setback minimum - 20 feet
6. Coverage maximum - 10%
7. Building height maximum - 40 feet with no limit for agricultural use.
8. General regulations as set forth in Section 3 hereof.

4.9.4 Note on District Area (*or)* Lands to which this district applies

Unless otherwise noted and or limited by an Overlay District(s), the depth of the Rural Scenic District shall be 1000 feet from the centerline of a public (State and Town) highway, as shown on the Official Zoning District Map.

4.10 Neighborhood Residential – "NBR"

The Neighborhood Residential District is a medium density residential area in proximity to the Village of South Braintree. The NBR district is primarily residential, and encourages Home Occupations. The NBR district is intended to expand the opportunity for residential growth in proximity to South Braintree Village. The density of the NBR is similar to that of the Village District, but with more limitations on commercial activities.

4.10.1 Permitted Uses within the NBR District

The following uses may be permitted upon the issuance of an Administrative Permit by the Administrative Officer:

1. Single unit dwellings and accessory dwelling units
2. Two unit dwellings
3. Three and four unit dwellings*
4. Accessory structures or uses
5. Outdoor signs (see Section 3.11))
6. Home occupations (see Section 3.9)
7. Accessory on farm business*

*Subject to site plan review

4.10.2 Conditional Uses within the NBR District

The following uses are permitted upon granting Conditional Use Approval by the Development Review Board and the issuance of an Administrative Permit by the Administrative Officer:

1. Bed and breakfasts
2. 5+ unit dwellings
3. Public cemeteries
4. Parking facilities
5. Medical clinic
6. School
7. Religious institutions

8. Community centers
9. Private clubs
10. Home enterprises (see Section 6.10.3)
11. Special outdoor signs (see Section 6.10.6)
12. Planned Residential Development (PRD) (see Section 6.11)
13. Other uses upon the determination by the Board that such use is of the same general character to other uses in the District, is consistent with the purposes of the District, and is compatible with adjoining land uses

4.10.3 Land Area and Structural Requirements for Residential Use within the NBR District

1. Lot area minimum - 1/2 acre
2. Frontage or lot width minimum - 100 feet
3. Front setback minimum - 40 feet
4. Rear setback minimum - 20 feet
5. Side setback minimum - 15 feet
6. Coverage maximum - 20%
7. Building height maximum - 40 feet
8. General regulations as set forth in Section 3 hereof.

4.10.4 Land Area and Structural Requirements for Non-Residential Use within the NBR District

1. Lot area minimum - 1 acre
2. Frontage or lot width minimum - 200 feet
3. Front setback minimum - 60 feet
4. Rear setback minimum - 50 feet
5. Side setback minimum - 15 feet
6. Coverage maximum - 20%
7. Building height maximum - 40 feet
8. General regulations as set forth in Section 3 hereof.

4.11 Floodplain Overlay District - "FLD"

Adjacent to branches of the White River and its tributaries are lands subject to periodic flooding. Floodplains are unsuitable for development because of the high loss potential for life and property as well as the limited ability of septic systems to perform adequately during periods of high water. Only agriculture, recreation and open space uses are permitted in floodplains.

It is the purpose of this district to:

1. Implement the goals, policies, and recommendations in the current municipal plan;

2. Avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding related inundation and erosion;
3. Ensure that the selection, design, creation, and use of development in hazard areas is reasonably safe and accomplished in a manner that is consistent with public wellbeing, does not impair stream equilibrium, flood plain services, or the stream corridor;
4. Manage all flood hazard areas designated pursuant to 10 V.S.A. Chapter 32 § 753, the municipal hazard mitigation plan; and make the Town of Braintree, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

4.11.1 Permitted Uses in the Floodplain Overlay District

The following development activities may be permitted upon the issuance of an Administrative Permit by the Administrative Officer:

a. In the Special Flood Hazard Area and River Corridors, but outside of the Floodway:

1. Non-substantial improvements;
2. Accessory structures;
3. Building utilities;
4. At-grade parking/patios for existing buildings; and
5. Wildlife refuges

b. Within the entire Special Flood Hazard Area and River Corridors:

1. Improvements or repairs from damage to structures that do not expand the existing footprint and do not meet the definition of "substantial improvement" or "substantial damage";
2. Building utilities;
3. Municipal transportation infrastructure improvements designed by the Vermont Agency of Transportation that have written confirmation from the ANR Regional Floodplain Manager that the project is designed to meet or exceed the applicable standards in this bylaw;
4. Placement of recreational vehicles which are licensed and ready for immediate use.

4.11.2 Conditional Uses in the Floodplain Overlay District

The following uses are permitted uses upon granting Conditional Use Approval by the Development Review Board and the issuance of an Administrative Permit by the Administrative Officer:

1. Quarrying, gravel and mineral extraction (see Section 6.10.4)
2. Public and private outdoor recreation
3. Substantial improvement, elevation, relocation, or flood-proofing of existing structures;

4. New or replacement storage tanks, water supply, or septic systems for existing structures;
5. Improvements to existing structures in the floodway;
6. Grading, excavation; or the creation of a pond;
7. Improvements to existing roads;
8. Bridges, culverts, channel management activities, or public projects which are functionally dependent on stream access or stream crossing;
9. Public utilities;
10. Improvements to existing primary structures in the River Corridors that do not expand the footprint of the existing structure more than 500 square feet;
11. At grade parking in the floodway.
12. Fill or grading resulting in no net loss of flood storage.
13. Building utilities in the Fluvial Erosion Hazard Zone; and
14. All other activities that are not otherwise exempt, prohibited, or eligible for administrative review.

4.11.3 Exempted Uses in the Floodplain Overlay District

The following activities are exempt from permitting within the Floodplain Overlay District:

1. The removal of a building in whole or in part. The ground elevations under and adjacent to the removed structure must remain unchanged, except as needed to fill an existing basement to grade;

2. Maintenance of existing sidewalks, roads, parking areas, bridges, culverts or stormwater drainage;

3. Streambank stabilization, and abutment work that do not reduce the cross-sectional flow area of the river or stream channel and have coverage under a Stream Alteration Permit, if required;

4. Planting projects which do not include any construction or grading activities in accordance with 24 V.S.A. § 4424(c);

5. Subdivision of land that does not involve or authorize development;

6. The following activities are exempt from municipal regulation, but may require a permit under the State's "Vermont Flood Hazard Area and River Corridor Rule" (Environmental Protection Rule, Chapter 29):

    i. State-owned and operated institutions and facilities;

    ii. Forestry operations and silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont or other accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation;

    iii. Agricultural activities conducted in accordance with the Vermont Agency of Agriculture Food and Market's Required Agricultural Practices (RAPs).

Prior to the construction of farm structures, the farmer shall notify the ZA in writing of the proposed activity. The notice shall contain a sketch of the proposed structure including setbacks meeting community requirements;

iv. Public utilities regulated under 30 V.S.A. § 248;

v. Telecommunications facilities regulated under 30 V.S.A. § 248a;

4.11.4 Prohibited Development in the Floodplain Overlay District

The following activities are prohibited in the Floodplain Overlay District:
1. New residential or non-residential structures;
2. New critical facilities;
3. Junk yards; or
4. New net fill.

4.11.5 Land, Area and Structural Requirements in the Floodplain Overlay District

1. Lot area minimum - 2 acres
2. Frontage or lot width minimum - 300 feet
3. Front setback minimum - 70 feet
4. Rear setback minimum - 50 feet
5. Side setback minimum - 50 feet
6. Coverage maximum - 15%
7. Building height maximum - 40 feet with no limit for agricultural use.
8. General regulations as set forth in Section 3 hereof.

4.11.6 Special Provisions within the Floodplain Overlay District

4.11.6.1 Warning of Disclaimer of Liability

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

4.11.6.2 Lands to Which these Regulations Apply

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

1. River Corridors as determined on the most current River Corridor Map published by the Vermont Agency of Natural Resources which are hereby adopted by reference and declared to be part of these regulations. On streams with a watershed size greater than half a square mile for which River Corridors are not mapped, the standards shall apply to the area measured as 50 feet from the top of the stream bank or slope. and

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

B. Base Flood Elevations and Floodway Limits in Special Flood Hazard Areas

Where available, base flood elevations and floodway limits provided by the National Flood Insurance Program and in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations. In Special Flood Hazard Areas where base flood elevations and/or floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, it is the applicant's responsibility to develop the necessary data. Where available, the applicant shall use data provided by FEMA, or State, or Federal agencies.

4.11.6.3 Interpretation

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

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

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

4.11.6.4 Summary Table: Development Review in Hazard Areas

The hazard areas are not appropriate sites for new structures nor for development that increases the elevation of the base flood or obstructs the ability of streams to establish and maintain geomorphic equilibrium.

#	Activity	Hazard Zone

	P Permitted **C** Conditional Use Review **X** Prohibited **A** Exempted	**Special Flood Hazard Area**	**Floodway**	**River Corridors**
1	**New Structures**	X	X	X
2	**Storage**	X	X	X
3	**Improvements to Existing Structures**	P, C	C	P, C
4	**Small Accessory Structures**	P	X	P
5	**At Grade Parking**	P	C	P
6	**Replacement water supply or septic systems**	C	C	C
8	**Fill or grading resulting in no net loss of flood storage**	C	C	C
9	**Fill or grading resulting in a loss of flood storage**	X	X	X
12				
13	**Road maintenance**	A	A	A
14	**Road improvements**	C	C	C
15	**Bridges and culverts**	C	C	C
16	**Channel management**	C	C	C
17	**Recreational vehicles**	P	P	P
18	**Open space, recreation**	A	A	A
19	**Forestry**	A	A	A
20	**Agriculture**	A	A	A

4.11.6.5 Development Standards in the Floodplain Overlay District

The criteria below are the minimum standards for development in the Floodplain Overlay District. Where more than one zone or area is involved, the most restrictive standard shall take precedence.

A. Special Flood Hazard Area

1. All development in the Special Flood Hazard Area shall be:
    1. Reasonably safe from flooding;
    2. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
    3. Constructed with materials resistant to flood damage;
    4. Constructed by methods and practices that minimize flood damage;
    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;
    6. Adequately drained to reduce exposure to flood hazards;
    7. Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and
    8. Required to locate any fuel storage tanks (as needed to serve an existing building in the Special Flood Hazard Zone) a minimum of two feet above

the base flood elevation and be securely anchored to prevent flotation; or storage tanks may be placed underground, if securely anchored as certified by a qualified professional.

2. In Zones A, AE, AH, and A1 - A30 where base flood elevations and/or floodway limits have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation 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.

Flood Hazard Zones

Each of the designations listed in this section (A, AE, AH, and A1-A30) are all designations set by FEMA on their Flood Insurance Rate Maps. Some towns have only A zones, others have more. The Braintree AO can help you determine what FH zone you're in, or if you're in the FHA at all.

3. Structural Standards

a. Structures to be substantially improved shall be located such that the lowest floor is at least two feet above base flood elevation, this must be documented, in as-built condition, with a FEMA Elevation Certificate;

b. Non-residential structures to be substantially improved, replaced, or that have incurred substantial damage shall:

i. Meet the standards of section 4.11.6.5 A 3(a) above; or,
ii. Have the lowest floor, including basement, together with attendant utility and sanitary facilities, designed so that to at least two feet above the base flood elevation the structure is dry floodproofed, meaning watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

ii. A permit for dry floodproofing shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications, and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection;

c. Fully enclosed areas below the lowest floor shall:

i. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and

ii. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings on two walls

having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above 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.

4. Recreational vehicles on sites within special flood hazard areas shall be:

   a. On the site for fewer than 180 consecutive days and be fully licensed and ready for highway use; or
   b. Meet the requirements for structures in Section 4.11.6.5 (A) 3.

5. A small accessory structure of 500 square feet or less that represents a minimal investment need not be elevated to the base flood elevation in this area, provided the structure:

   a. Shall be used only for parking or storage of non-hazardous material;
   b. Shall be designed to have low flood damage potential;
   c. Shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
   d. Shall provide 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;
   e. Shall be firmly anchored to prevent flotation; and
   f. Shall have service facilities such as electrical and heating equipment, elevated or flood-proofed to at least one foot above base flood elevation.

6. Replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

7. 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.

8. Replacement on-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

9. The flood carrying and sediment transport capacity within the altered or relocated portion of any watercourse shall be maintained, and any alteration or relocation shall not result in any decrease of stream stability.

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

11. Structures to be substantially improved must be accessible by dry land access outside the special flood hazard area.

B. Floodway Areas

1. Encroachments or development above grade and below the elevation of the floodway are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a registered professional engineer, certifying that the proposed development will:

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

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

C. River Corridor Development Standards

These are the minimum standards for development in the River Corridor. Where more than one district is involved, the most restrictive standard shall take precedence.

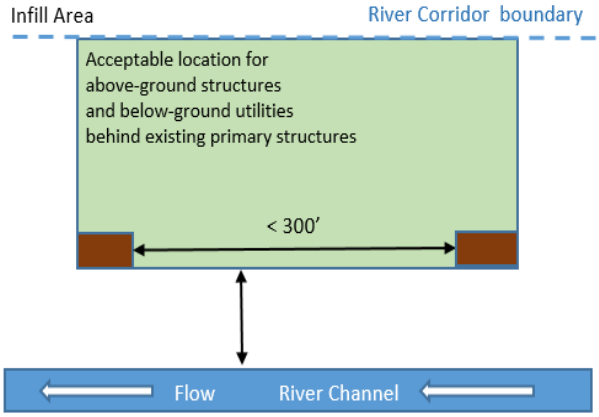


Figure 1: In-fill Development Standard

1. In-Fill: Development must be located no closer to the top of bank than the existing primary structures, within a gap that is no more than 300 feet (see Figure 1), or

2. Down River Shadow: An addition to an existing habitable structure, or an accessory structure that is adjacent to an existing structure, shall be located in the shadow area directly behind and further from the channel than the existing structure, or within 50 feet to the downstream side and no closer to the top of bank. Below-ground utilities may also be placed within the same shadow dimensions of an existing below-ground system (see

Figure 2). Only primary structures existing before this bylaw may be considered for shadowing other development.

3. River Corridor Performance Standard
Proposals that do not meet the infill or shadowing criteria in section C. 1 or 2 must demonstrate, and the DRB must find, that the proposed development will:

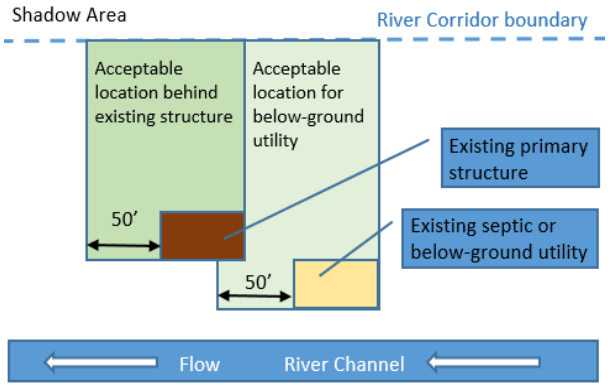


Figure 2: Shadow Area Development Standard

a. not be placed on land with a history of fluvial erosion damage or threatened by fluvial erosion; and,

b. not cause the river reach to depart from or further depart from the channel width, depth, meander pattern, and slope associated with natural stream processes and equilibrium conditions; and,

c. not result in a need for bank armoring or stream channelization as a result of the proposed development, that would increase flood elevations and velocities, or alter the sediment regime triggering channel adjustments and erosion in adjacent and downstream locations.

4. The DRB may request or consider additional information to determine if the proposal meets the River Corridor Performance Standard, including data and analysis from a consultant qualified in the evaluation of river dynamics and erosion hazards; and comments provided by the DEC Regional Floodplain Manager on whether the proposal meets the River Corridor Performance Standard.

5. New paths or alterations to paths that provide access to the water for the public, and promote the public trust uses of the water, shall not necessitate bank armoring, and must be relocated when the channel adjusts toward the path.

5. Administrative Permits

5.1 Administrative Permits

No land development, change in use or subdivision of land may be commenced within the area affected by this Bylaw without an Administrative Permit being issued by the Administrative Officer, unless the development has been specifically exempted from requiring a permit by state or federal law, or elsewhere in this Bylaw.

Administrative Permits

An Administrative Permit is **ANY** type of permit authorized under this unified bylaw.

Assuming the application for an Administrative Permit is for a permitted use, is in compliance with this Bylaw and is complete, with the correct fee, no hearing will take place on the application and the applicant will have a permit issued to them, which will become valid 15 days after issuance unless appealed. If the application is subject to Conditional Use, Site Plan Review, or Subdivision Review by the DRB, no permit may be granted until such review is completed and approval granted.

For permit applications seeking approval of a structure, the Administrative Officer shall provide the applicant with a digital or print copy of the applicable building energy standards as specified in 24 VSA § 4449(a)(1), unless the structure is a sign or a fence or the application certifies that the structure will not be heated or cooled.

5.2 Application for Permit

An Application for an Administrative Permit shall be filed with the Administrative Officer on forms approved by the Development Review Board, and accompanied by fees set by the Selectboard. In addition to the information requested on the form, additional information shall require surveys, site plans, or drawings sufficient to enable the Administrator or Development Review Board to adequately review the proposed land development. An application shall not be accepted unless:

1. signed by the applicant (who must be the owner of record, or the owner and future developer) and
2. accompanied by the required fees.

Within the Floodplain Overlay District, the following additional requirements apply:

3. Where applicable, a site plan that depicts the proposed development, all water bodies, Special Flood Hazard Areas, floodways, River Corridors, the shortest horizontal distance from the proposed development to the top of bank of any stream, any existing and proposed drainage, any proposed fill, and pre and post development grades, and the elevation of the proposed lowest floor, as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps;
4. A copy of the Vermont Agency of Natural Resources Permit Navigator Results Summary.

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

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.

5.3 Relationship of Administrative Permit to Other Approvals/Permits

Granting of a permit under this Bylaw does not relieve the applicant of the need for any other local, state or federal permit under other regulations. When other municipal permits, approvals, or authorizations are required by this Bylaw, the Administrator shall notify the applicant of these, and refer the application within 30 days to the appropriate body. The Administrator should coordinate a unified effort on behalf of the municipality in administering the various local development review programs. These include:

- An access permit from the Selectboard if there is a new or modified access onto the property. This is not a permit under this Bylaw, but is a prerequisite to most Administrative Permits.
- Conditional Use and Site Plan Approvals from the Development Review Board are needed under this Bylaw prior to the issuance of an Administrative Permit for construction if a development involves a conditional use.
- The Administrator shall inform any person subdividing a lot that a state administrative permit or required statement on the deed is also needed.
- The Administrator shall require, when applicable, that permit applicants receive a state wastewater and potable water supply permit prior to the issuance of a municipal zoning or subdivision permit.
- A waiver or variance under this Bylaw may be needed prior to an Administrative Permit if a project does not conform exactly to the requirements of this Bylaw.

The Administrator shall also inform any person applying for municipal permits or authorizations that the person should contact the regional Permit Specialist employed by the Agency of Natural Resources for assistance on using the Permit Navigator tool in order to assure timely action on any related state permits. Nevertheless, the applicant retains the obligation to identify, apply for, and obtain relevant state permits.

5.4 Completion or Expiration of Permit Application

An application for an Administrative Permit will not be considered complete by the Administrative Officer and acted upon until it includes:

1. all required information and fees,
2. any applicable necessary approvals as required by law, and
3. for any permit for the development of land within the area of special flood hazard area, a copy of such flood development permit in accordance with section 4424 of the Act.

When additional information is requested from the applicant by the Administrative Officer in order to consider the permit application complete, and such information is not presented within 90 days of the request, the application will expire and be deemed rejected.

5.5 Approval or Denial of Permit

Within 30 days of the submission of a completed application per Section 5.4, the Administrative Officer shall either issue or deny the Administrative Permit. If the permit is denied, the Administrative Officer shall notify the applicant in writing, stating the reasons for denial, and the procedure for appeal. Denials shall be filed in the permit and land records in the same manner as approvals.

If the Administrative Officer fails to act within 30 days, a permit shall be deemed issued on the 31st day.

5.6 Effective Date of Administrative Permit and Posting

Administrative Permits shall not take effect until 15 days after issuance by the Administrative Officer, or in the event that a notice of appeal is properly filed, such permit shall not take effect until final adjudication of the appeal. Each permit or notice of permit issued under this section shall contain a statement of the period of time within which an appeal may be taken.

Within three days following the issuance of a permit, the Administrative Officer shall:

1. deliver a copy of the permit to the listers of the municipality;
2. post a copy of the permit at the Town Office until the time for appeal has passed; and
3. require the applicant to post a copy of the notice of permit on a form prescribed by the Development Review Board within view from the public right-of-way most nearly adjacent to the subject property.

5.7 Filing

After the 15-day appeal period has closed, but within 30 days after an Administrative Permit has been issued, the Administrative Officer shall also deliver the original or a legible copy of the notice of permit to the Town Clerk for recording in the town's land records along with a form that describes:

1. as grantor, the owner of record title to the property at the time the municipal land use permit or notice of violation is issued;
2. as grantee, the municipality issuing the permit, certificate or notice;
3. the municipal or village office where the original, or a true, legible copy of the municipal land use permit may be examined;
4. whether an appeal of such permit, certificate, or notice has been taken; and
5. tax map lot number or other description identifying the lot.

For permits granted within the Floodplain Overlay District the Administrative Officer shall properly file and maintain a record of:

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

The Town Clerk may charge the applicant for additional recording fees as allowed by law.

The Administrator shall also file a copy of the effective Permit, along with any necessary approvals, conditions, maps or drawings in the permit files in Town Office where full copies of all municipal land use permits are kept.

5.8 Permit Duration

All projects, as authorized by an Administrative Permit, shall be commenced within a period of two years unless construction has been delayed by litigation to secure other permits or approvals. A permit extension can be requested from the Administrative Officer for an additional two years. Projects not commenced by the time of expiration of an Administrative Permit must reapply for a new permit and any other necessary approvals.

5.9 Appeal of Administrative Officer's actions or Administrative Permit

See section 9 for information on the appeals process.

6. Conditional Use Approval

6.1 Conditional Use Approval Needed

For certain kinds of development (as listed as Conditional Uses under each district in section 4), the Development Review Board must approve the Conditional Use Conditional Use Approval by the Development Review Board is required before an Administrative Permit may be granted by the Administrative Officer. As its name implies, Conditional Use Approval will entail written conditions on development, imposed by the DRB, in order to achieve certain goals contained in these bylaws or the Town Plan. The Development Review Board must hold at least one warned hearing prior to issuing approval.

For other kinds of development (detailed in Section 6.6 below), the Development Review Board must approve the Site Plan for that development before an Administrative Permit may be granted by the Administrative Officer.

In order to streamline notice requirements and review, when both Site Plan and Conditional Use Approval are required for the same application, the provisions for Site Plan Review may be combined with those for Conditional Use under a single Combined Review by the DRB when possible.

6.2 Application Requirements for Conditional Use and Site Plan Approval

Applications for Conditional Use, Site Plan, or a Combined Conditional Use and Site Plan Approval must be made on forms approved by the Development Review Board.

Along with the permit application form and associated fee, the Applicant shall submit to the Administrative Officer the following information and supporting data sufficient to demonstrate compliance with the General Conditional Use Standards and/or the General Standards for Site Plan Approval of Sec. 6.5 and 6.7 (or an explanation of why they are not applicable).

1. Name and address of the owner of record, and the name (s) and address (es) of the owner (s) of adjoining lands.
2. Two sets of a scaled Site Plan showing lot lines, setbacks, proposed structure locations and land use areas; roads, driveways, traffic circulation, parking and loading spaces and pedestrian walks; landscaping plans, including site grading, landscape design and screening, together with the name and address of person or firm preparing the Plan.
3. Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas of the entire development.

4. Home Enterprises, and Commercial uses must state anticipated numbers of customers, deliveries, and employees. Future increases above the approved limits will require a revised approval and permit.
5. If requested by either the AO or the DRB, a survey of the property showing existing features, including contours, structures, large trees, streets, utility easements, rights of way, land use and deed restrictions.

The Administrative Officer may request additional items to deem an application complete. If additional information is requested from the applicant and such information is not presented within 90 days, the application will be deemed rejected.

6.3 Hearing for Conditional Use Approval

When a Conditional Use, Site Plan Review, or Combined application is in compliance with this Bylaw and is deemed complete by the Administrative Officer, and is accompanied with the correct fee, at least one warned public hearing before the Development Review Board shall take place on the application, within 30 days of referral from the AO, and shall be warned per the noticing requirements of section 9.1.

The Development Review Board may request additional items at any time during the Development Review Board's consideration of the application in order to deem an application complete. If additional information is requested from the applicant and such information is not presented within 90 days, the application will be deemed rejected. Within the Floodplain Overlay District, the DRB shall seek and consider comments from the NFIP Coordinator at ANR and may recess the proceedings on the application pending receipt of such additional information.

The Development Review Board must grant or deny the application within 45 days of the close of its final hearing on the application, or approval will be automatically given on the 46th day. Any approval or denial shall contain written findings of fact setting forth reasons for approval or denial, list any conditions, and address each of the standards relevant to the proposed development.

Copies of the decision approving or denying the conditional use will be promptly mailed by the Development Review Board to the applicant by certified mail, and by first class mail to every person or body appearing and having been heard at the hearing(s), and also filed with the Administrative Officer and the Town Clerk.

Assuming approval is granted by the DRB, and not appealed, the Conditional Use and/or Site Plan Approval shall be attached to the application and an Administrative Permit will be issued by the AO which will become valid 15 days after issuance unless appealed. (See Sec. 9.3 for Appeal details.) No permit shall be issued, however, for site development for a Conditional Use until the Development Review Board grants Site Plan Approval.

6.4 Provision for Independent Consultants

To assist the Development Review Board in its review of technical issues in applications under this section, it may, after consultation with the applicant, retain independent consultants and require the applicant to pay the reasonable cost of their services. Any final reports or documents prepared by the consultant shall be made available to the applicant and other parties to the proceeding and shall become a part of the application file.

6.5 General Conditional Use Standards

In granting Conditional Use Approval, the DRB shall find that the proposed use shall not result in an undue adverse effect on or related to any of the following:

d. Capacity of existing or planned community facilities or services. The development shall not have an undue adverse impact on adjoining properties and existing or planned community facilities and services.

e. The character of the area affected as defined in the purposes of the district. The development shall not have an undue adverse effect on the character of the area affected as defined by the purpose(s) and standards of the district in which the proposed project is located as well as by the specifically stated policies and standards of the town plan. As well as to the following specific policies and standards:

    A. **Scenic resources**. Development within the Rural Scenic District shall be located and configured to avoid undue adverse impacts (see sidebar) to the scenic character of the area.
    B. **Lighting.** Exterior lighting (including type of lights, location and direction of lighting) may be limited in order to reduce light pollution.
    C. **Historic resources.** Land development located within areas recognized as containing a historically significant site or structure as identified in the Braintree Town Plan or by the Vermont Division for Historic Preservation may be required to be designed to retain or enhance the unique characteristics of the site/structure.
    D. **Forestry and agricultural resources.** Conservation of productive forestland and primary agricultural soils shall be incorporated in development planning. Land development involving tracts of such resources will be approved on the determination that it has taken reasonable steps to minimize impacts to the agricultural and silvicultural potential of the land through the use of cluster planning concepts, and the

layout of roads, utilities, or similar investments on land less suited to farming.

E. **Landscaping.** Landscaping, screening or the retention of vegetation may be required of new development, or any expansion of conforming and nonconforming uses, to lessen its visual effect from public roads.

F. **Stormwater and erosion control.** Appropriate drainage must control stormwater run-off, prevent erosion and protect neighboring land, water, and roads from undue impacts. Erosion control measures shall comply with the latest standards by the Vermont Department of Environmental Conservation.

G. **Noise.** Persistent discernable noise, except that customary and incidental to residences, beyond the property line is not permitted from 7 PM until 7 AM, or on weekends. From 7 AM to 7 PM, such noise shall be limited to 70 decibels (DbA) at the property line. In the case of uncertainty by the Development Review Board of future or existing noise, the owner or occupant shall hire a qualified engineer at their expense who must certify that the sound levels are being met.

H. **Dust/smoke and odor.** No visible dust/smoke or discernable objectionable odor beyond the property line is permitted, excepting as is incidental and customary to residences, farms or permitted burning.

I. **Vibration.** Continuing vibration which is readily discernable without instruments on adjacent property is prohibited.

3. Traffic on roads and highways in the vicinity. On site: Adequate travel and pedestrian lanes on the site must allow residents, employees, business vehicles and delivery/service vehicles to safely enter and exit the site. Offsite: The DRB shall determine that the traffic generated by the proposed development shall not result in adverse traffic congestion or exceed the capacity of roads and intersections in the vicinity of the development. The DRB may request at the expense of the applicant, the preparation of a traffic impact study to identify impacts and mitigation measures necessary to ensure road safety and efficiency and may require that mitigation measures be implemented.

7. The utilization of renewable energy resources. The proposed development will not interfere with the sustainable use of renewable energy resources, including access to, direct use of, or future availability of such resources.

8. Other regulations and the Town Plan. The development shall be in compliance with the requirements of the Agency of Natural Resources, this Bylaw, the Town Plan, and with all other bylaws and ordinances in effect.

6.6 Site Plan Approval

The Administrative Officer may issue a Zoning Permit only for one-family and two-family dwellings, and select agricultural uses and accessory uses. In accordance with 24 V.S.A. §4416, no zoning permit shall be issued by the Zoning Administrator for any other uses (including but not limited to multi-family dwellings, commercial, or industrial uses that require new construction or change the use of existing sites or uses) until the DRB grants site plan approval. In instances where conditional use approval from the DRB is also necessary, site plan approval must be obtained first, unless the applicant and DRB determine that combined conditional use and site plan review by the DRB is possible.

The owner/applicant shall submit the information as required in Section 6.2 along with the application form.

6.7 General Standards for Site Plan Approval

The DRB shall review the site plan and supporting data before approval, approval with stated conditions, or disapproval, and shall make written findings in any such decision as to whether:

i. When subject to Conditional Use Approval, that the General Conditional Use Standards (Sec. 6.5) have been met.
ii. Safety. Reasonable attempts have been made to maximize safety of pedestrian and vehicular circulation between the site and the road/sidewalk network. Particular consideration shall be given to visibility at intersections, to traffic flow and control, to efforts to minimize curb cuts and interconnect uses, to pedestrian safety and convenience, and to access in case of an emergency. The DRB may require shared accesses or other traffic safety/pedestrian measures to satisfy this condition.
iii. Circulation, parking and loading/sanitary facilities are adequate for the proposed use, and that vehicle noise and noise from operations, and odors from operations, including refuse storage do not unduly affect adjoining properties. All exterior site lighting shall use shielded fixtures so that the light source is not directly visible from off site.
iv. Landscaping, other forms of physical screening and the distance of setbacks provides reasonable compatibility with and protection to adjacent property. Particular consideration shall be given to the adequacy of stormwater run-off and surface drainage facilities, to the preservation of existing vegetation, to the visibility of unsightly or incompatible areas from the road and adjoining properties, and to the adequacy of plantings/materials to meet seasonal conditions, soil conditions and light on the site.

6.8 Specific Conditional Use Standards

In granting an approval, the DRB shall further find that the proposed project conforms to the following prescribed specific standards so as not to result in an undue adverse affect on any of the general standards set forth in subsection 6.7:

6.8.1 **Hazardous Materials**

The DRB, when reviewing conditional use applications for junk yards or any other activity seeking the storage of petroleum products or hazardous materials, shall determine that the following conditions shall attach to any approval:

a. Inspections of the premises may take place with 24 hours notice to the landowner;

b. The Administrative Officer shall perform an annual inspection of the site and prepare a written report for the DRB;

c. The landowner shall provide a concise, professionally prepared plan for the storage and disposal of any and all hazardous material and waste which ensures contamination containment;

d. No exterior storage of hazardous materials or waste, junk, or junk vehicles within 100 feet of a surface water or wetland will be allowed;

e. Side and rear setbacks shall be no less than 100 feet;

f. Adequate screening shall be installed to prevent visibility of stored junk and vehicles from all roads and property lines.

6.8.2 **Mobile Home Parks**

Mobile home parks may be created within the Rural II District only. All parks shall be established, maintained and administered according to the Agency of Environmental Conservation rules or regulations relating to mobile home parks. No person shall layout, develop, or operate a mobile home park without first having obtained Conditional Use Approval from the Development Review Board.

The following specific standards must be met before a mobile home park is approved:

1. The maximum number of mobile homes in a mobile home park shall not exceed six mobile homes per gross acre of the park.
2. Each individual mobile home shall be located on a lot containing not less than 5,400 square feet and not less than 45 feet wide. No mobile home shall be located within 15 feet from the boundary of its individual lot, and not mobile

home shall be located within 50 feet from any boundary of the mobile home park lot.

3. Each mobile home space shall abut a driveway not less than 22 feet in width. Such driveway shall have at least two connections for vehicular travel to and from a public street or streets, located so as to minimize traffic hazards and congestion.
4. Parking of any motor vehicle in any part of the 22-foot paved width of an access driveway shall be prohibited, and enforced by the park operator. Parking spaces shall be provided for all vehicles customarily or occasionally in the park, but in no case shall less than three car spaces for each two mobile home sites be required. Such car spaces shall average 10 feet wide and 20 feet long with free access to the access driveway. Such car spaces shall be on the mobile home lot, in a parking lot, or may be in parking bays contiguous to an access driveway, in which case the paved width of the driveway and parking space combined shall be not less than 45 feet.
5. All driveways shall be adequately lighted.
6. A landscaped buffer strip shall be provided along all property and street lines of the mobile home park, not less than 15 feet in width, suitably screened with evergreen plantings, as approved by the Development Review Board.
7. Open Space for recreation and playground purposes shall be provided, occupying not less than 10% of the gross mobile home park area, conveniently located to all individual mobile home park sites. Such open space shall be suitably landscaped with a protective screen separating such space from driveways, parking areas, and service areas, and should be suitably equipped and furnished, in the judgment of the Development Review Board, for recreation and play purpose.
    a. All mobile homes shall be located outside of the 100-year floodplain.
    b. Plans for roads shall be of a width, grade, and gravel base suitable to enable safe access by emergency vehicles and be in conformance with Section 3.20.
    c. Landscaping and screening plans shall be sufficient to enhance the residential character and overall amenities for the residents of the park and neighboring properties.

6.8.3 **Home Enterprises**

9.

The purpose of the home enterprise concept is to allow for the wise use of structures on residential properties and to provide owners the opportunity to pursue alternative entrepreneurial activities in a residential setting.

Noted below are the general requirements for a home enterprise; additional requirements may be imposed during the permitting process. A home enterprise is a non-residential use requiring both Conditional Use Approval and Site Plan Approval prior to the issuance of an Administrative Permit. As part of the review of a project, attention shall be given to maintaining rural character and adjacent properties in the area. Applications will be

denied if road conditions are considered too narrow or unsafe to accommodate additional traffic.

1. The owner of the home enterprise shall reside on the property.
2. There shall not be more than five (5) on-premise employees who do not reside on the property.
3. Parking shall be placed to the rear of the structure, where feasible, or to the side of the structure. Parking shall be provided outside the right-of-way and screening may be required by the DRB.
4. Traffic shall not be generated in a significantly greater volume or frequency than would be normally anticipated in the neighborhood. Such traffic shall not cause or increase unreasonable congestion or nuisance on roads, walkways, or accesses to neighboring properties.

Changes in scale or intensity of a Home Enterprise beyond what is permitted following a conditional use approval will require the permit holder to apply for a new permit, which will be subject to review by the DRB.

Home Occupations vs. Home Enterprise

While state Statute requires that home occupations be allowed, it does not do so for home occupations that have grown beyond the criteria listed in 3.9 of this ordinance.

To allow for the growth of home occupations, the Braintree Unified Bylaw has a category called "Home Enterprise". All Home Enterprises are a conditional use and therefore require review from the DRB.

A permit is required for Home Enterprises. See the AO for more information.

6.8.4 **Wireless Telecommunication Facilities**

All new, modified or expanded wireless telecommunication facilities, including but not limited to towers, antennae, accessory structures as well as related utilities and access roads, are subject to the general development standards for the district in which they are located, as well as general conditional use standards, unless such facilities are exempt from local review per 30 VSA 248a. and the specific conditional use standards contained in this section. The Development Review Board shall have the authority to impose conditions consistent with the purpose of this section in approving a proposed facility and also may require qualified independent consultants to verify claims made by the applicant at the applicant's sole expense.

The following wireless telecommunications facilities are exempt from this section provided the height of such facility does not exceed twenty (20) feet above the structure to which it is attached. Facilities exceeding more than 50 feet above grade, will require conditional use approval prior to issuance of a zoning permit:

1. amateur radio tower;
2. citizens band radio;
3. receiving antenna;

4. police, fire, ambulance, and other emergency dispatch;
5. single use local business radio dispatch;
6. repeaters;
7. wireless telecommunication facilities that have received a certificate of public good pursuant to 30 V.S.A. §248a

This Bylaw shall not prohibit a property owner's ability to place or allow placement of antennae used to transmit, receive or transmit and receive communications signals on the property owner's premises if the aggregate area of the largest face of the antennae is not more than eight square feet, and if the antennae and the mast to which they are attached do not extend more than 12 feet above the roof of that portion of the building to which they are attached.

No other wireless telecommunications facility shall be considered exempt from this Bylaw for any reason, whether or not said facility is proposed to share a facility or other structure with such exempt uses.

1. Co-location Requirements: An application for a new wireless telecommunications facility shall only be approved by the Development Review Board upon a finding that the new facility cannot be accommodated on an existing or approved tower or structure within the Town of Braintree due to one of the following reasons, as documented by a qualified engineer licensed to practice in the State of Vermont:
    a. The proposed antennas and equipment would exceed the structural or spatial capacity of the existing or approved tower or facility. Additionally, the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment, at a reasonable cost, to provide coverage and capacity comparable to that of the proposed facility.
    b. The proposed antennas and equipment would cause radio frequency interference (RFI) materially impacting the usefulness of other existing or permitted equipment at the existing or approved tower or facility and such interference cannot be mitigated at a reasonable cost.
    c. The proposed antennas and equipment, either alone or together with existing facilities, equipment or antennas, would create excessive radio frequency radiation (RFR) in violation of federal standards or requirements.
    d. Aesthetic reasons or existing permit conditions make it unreasonable to locate the planned equipment upon an existing or approved tower or building.
    e. All new facilities and lease agreements granted a permit in Braintree shall be designed and written to reasonably accommodate both the applicant and at least one additional user if the tower is less than or equal to 75 feet in height, and for two additional users if it exceeds 75 feet in height. Towers must be designed to allow future rearrangement of antennas, and to accept antennas mounted at varying heights. Sufficient power and access to the site may also be required to service additional users.

2. Alternatives analysis: If there is no feasible co-location available, the board must also find that the applicant has analyzed other potential sites or methods and selected the least intrusive option. In reaching these findings, the Board may designate an alternative location(s) or method(s) to be evaluated at the applicant's expense to determine if it would result in less adverse impacts.
3. All towers, including antennae, shall be designed to have the minimum height necessary to reach the coverage objective. Unless it is the only option necessary to comply with FCC regulations, no towers may extend more than 20 feet above the average elevation of the adjacent tree line.
4. No speculative towers are allowed. An applicant for a permit must be a personal wireless service provider or FCC licensee, or must provide a copy of its executed contract to provide land or facilities to such an entity, to the Administrative Officer at the time that an application is submitted.
5. Towers shall be set back at least 150% of their height from all property lines and public rights of-way. Antennae may be permitted with less setbacks to allow for their integration onto an existing structure such as a church steeple, light standard, utility pole, or similar structure, to the extent that no hazard to public health, safety or welfare results.
6. Facility construction and operation shall meet all State and Federal requirements, including, but not limited to, FCC requirements for transmissions, emissions and interference. No telecommunication facility, when fully equipped, shall be located or operated in such a manner that it poses a potential threat to public health or safety. Certification by a licensed engineer that the use will be in compliance with any federal radiation standard may be checked by independent review, but may not be cause for denial without conflicting certification by such an engineer.
7. New facilities and their associated access and utilities shall be designed and located to minimize their visibility through the use of existing vegetation, topography, landscaping and screening, use of compatible materials and colors, or other camouflaging techniques. Towers shall not be illuminated and shall not display strobe lights, unless such lighting is specifically required by the Federal Aviation Administration or other Federal or State authority. Towers shall be of a monopole design unless it is determined by the DRB that an alternative design would better blend into the surrounding environment. All utilities proposed to serve a telecommunications site shall be installed underground, except in the case of where they pre-exist. All access roads must meet the same standards as for all other development. In order to minimize the visual impact of a straight line cut through forested areas for access to the tower, Development Review Board may require a modified access route.
8. Free standing towers may be required to be enclosed by security fencing at least 6 feet in height, and shall be equipped with appropriate anti-climbing devices.

9. No signs other than for warning or equipment and contact information signs are allowed on the facility and any exterior lighting must be shielded and motion activated.
10. Annual Certification: Any conditional use approval shall require that the owner of a facility shall annually, on January 15, file a declaration with the Town of Braintree's Administrative Officer certifying the continuing safe operation by a wireless carrier of every facility installed subject to these regulations. Failure to file a declaration shall mean that the facility is no longer in use and may be considered abandoned and subject to removal and forfeiture of bond after notice by certified mail. A copy of the relevant portions of any signed lease, which requires the applicant to remove the tower and associated facilities when abandoned, shall be submitted at the time of application.
11. Removal and Bond: After proper notice, facilities which are constructed in violation of permit conditions or application representations, and facilities deemed to be abandoned shall be removed by the owner within 180 days of notice, certified as required above, or be the subject of a pending application for such development. In the event the tower or facility is not removed within the 180 days, the municipality shall notify the owner and may remove the tower or facilities at the owner's cost. All facilities shall, as a condition of approval, provide a financial surety bond payable to the Town and acceptable to the Board to cover the cost of removal of the facility and remediation of the landscape, should the above clause be invoked.
12. Maintenance Requirements: The Applicant shall maintain all facilities. Such maintenance shall include, but not be limited to erosion control, painting, structural integrity, and landscaping.

6.8.5 **Sand and Gravel Extraction, Mining, and Quarrying**

When applying for a conditional use approval under this section, the applicant must submit:

1. A complete site plan and activity description, showing the location of all present and proposed extraction sites, the expected duration and intensity of the activity, whether it is expected to be intermittent or ongoing and a description of any power activated excavation or extraction machinery for crushing, sorting, or processing;
2. An access plan, showing all roads and drainage and anticipated traffic volumes; and
3. A rehabilitation plan, showing all extraction sites and the proposed method and location of stabilization with an appropriate permanent vegetative cover.
4. Depth of excavation and proximity to roads or adjacent properties;
5. Existing grade and proposed grade created by removal or addition of material;
6. Anticipated effect upon public health and safety;
7. Congestion or damage to public roads;

8. Measures for preventing erosion, controlling runoff, and conserving topsoil.

In addition to standards for general development, conditional use standards, any new extraction operation, or expansion, must meet at least the following minimum standards, unless the DRB determines that higher standards are appropriate for the particular site or conditions:

1. No stationary processing machinery will be located within less than 300 feet of any property line, unless mitigation actions (screening, noise control, etc.) steps are approved by the DRB.
2. Intermittent blasting may be approved by the DRB subject to conditional use review.
3. Blasting operations must be preceded by written or verbal notice to abutting landowners at least 24 hours in advance and also by an audible warning signal prior to the blasting. In no case can the vibration or shock of blasting be sufficient to damage nearby utilities, structures or their contents.
4. Topsoil, if present on the site, shall be retained on site in sufficient quantity to achieve the rehabilitation plan.
5. A naturally vegetated buffer zone may be required to be maintained between the top or bottom of any working faces, proposed stabilized banks or rock cuts, and property lines.
6. Rehabilitation plans shall provide that the finished land will not have banks of material exceeding a 1:2 slope, except in the case of stable rock. Fencing may be required within the buffer zone for safety.
7. A bond may be required sufficient to insure compliance with rehabilitation plans.
8. The depth of excavations shall be such that at least 3 feet of undisturbed, native material shall be left in place over the seasonal high water table.
9. Owners of sand and gravel extraction, mining, or quarrying facilities are obligated to compensate the town for any damage to public roads beyond that of normal everyday use. The DRB may require the posting of a bond for repairs to roads.
10. The applicant shall be required to take all reasonable measures to limit the amount of dust and other air quality contaminants generated from the extraction, processing and transport of earth materials.
    a) Water, calcium chloride or similar agent shall be applied as necessary to the haul roads, traffic areas and non-vegetated storage piles to prevent fugitive dust and the tracking of dirt onto public roads.
    b) Rock crushing equipment with a maximum rated capacity of greater than 150 tons per hour shall be prohibited.
    c) All trucks entering or exiting the site that are loaded with materials that may generate fugitive dust shall be covered.

6.8.6 **Special Signs Requiring Conditional Approval**

The following special signs may be permitted upon the granting of Conditional Approval by the Development Review Board:

1. When a cluster of buildings, or one building with multiple establishments, share a common vehicular entrance, one (1) sign, not to exceed a maximum of fifty (50) square feet, may be permitted, in addition to the regular sign area allowed.
2. Two (2) signs, not to exceed a maximum total sign area of fifty (50) square feet may be allowed in addition to the regular sign area permitted if, upon site review, unique physical conditions prove them necessary.

The following shall be considered by the Development Review Board when determining whether or not an additional sign or signs will be allowed:

1. Distance from the road
2. Size of building
3. Location and surroundings of the building
4. Character and size of surrounding signs

6.8.7 **Residential Wind Energy Systems**

Residential wind energy systems that are not connected to the grid may be allowed in designated zoning districts as an accessory use to a dwelling subject to conditional use approval by the DRB in accordance with this chapter and all of the following provisions:

1. The small wind energy system may consist of one or more towers not to exceed a total height, including the tower and the length of the blades, of 130 feet above the height of the ground at the base of the tower.
2. The requested height of the system shall not exceed what is reasonably necessary to provide efficient operation of the system.
3. The applicant shall take all reasonable measures to minimize any undue adverse visual or noise impact of the system.
4. The tower shall be set back a distance one and a half times the total height, including the tower and the length of the blades, from:
   a) Any public road right-of-way, unless written permission is granted by the governmental entity with jurisdiction over the road;
   b) Any overhead utility lines; and
   c) All property lines, unless written permission is granted by the adjoining landowner(s).

Grid-connected wind energy systems are exempt from this bylaw.

6.8.7.1 **Expiration and Abandonment of Residential Wind Energy Systems**

1. A permit issued pursuant to this Section shall expire if the residential wind energy system is out-of-service or otherwise unused for a continuous 12-month period.
2. A residential wind energy system that is out-of-service for a continuous 12-month period will be deemed to have been abandoned. The Administrator may issue a Notice of Abandonment to the owner of a small wind energy system that is deemed to have been abandoned. The Owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. The Administrator shall withdraw the Notice of Abandonment and notify the Owner that the Notice has been withdrawn if the Owner provides information that demonstrates the residential wind energy system has not been abandoned.
3. If the residential wind energy system is determined to be abandoned, the owner of a residential wind energy system shall remove the wind tower at the Owner's sole expense within 3 months of receipt of Notice of Abandonment. If the owner fails to remove the wind tower, the Administrator may pursue a legal action to have the wind tower removed at the Owner's expense.

6.8.8 **Planned Residential Development (PRD)**

6.8.8.1 **General Intent and Purpose**

The provisions for Planned Residential Development (PRD) set forth below are intended to permit the development of larger parcels of land in such a manner as will result in the most efficient, aesthetic, and desirable use of such parcels; encourage a more creative approach to the development of such parcels than would otherwise result under these Regulations; and to provide flexibility in the design and placement of buildings, open spaces, vehicular and pedestrian circulation and off-street parking areas so as to best utilize the features of the specific site.

In order to encourage innovation in design and layout and promote the efficient use of land, the Development Review Board may grant PRD approval for proposals subject to the standards and conditions set forth below.

6.8.8.2 **Planned Residential Development – Standards and Conditions**

In its review and approval of a proposed Planned Residential Development, the Development Review Board shall find in its written decision that the Project meets all of the following criteria and standards:

1. The application submitted satisfies all the requirements for submission of a Planned Residential Development application as identified by the Development Review Board.

2. The parcel size of the proposed project meets the minimum area requirements set forth below:

Zone	Minimum Area Requirements
Conservation District	50 acres
Rural District I	20 acres
Rural District II	4 acres
Neighborhood Residential	1 acre
Village District	1 acres

3. The setback requirements, as determined for the project in its entirety, and for any and all buildings, structures, or lot lines within the project, comply with all applicable setback requirements.
4. The total number of dwellings and other uses shall not exceed the number or densities that would be permitted in the Development Review Board's judgment if the involved land were subdivided into lots in conformance with the Regulations, except as under 3.
5. Density Bonus Available- Notwithstanding the above, in order to encourage the most appropriate and efficient use of the involved land, the total number of dwellings and other uses may be exceeded by up to twenty-five percent (25%), and up to 50% on affordable housing developments. In granting any such requested density increase, the Development Review Board shall find that:

    A. The character and siting variations incorporated in the project consists of factors which make a substantial contribution to the general intent and purposes of the PRD provision.
    B. Such variation are appropriate based upon, but not limited to, the following project amenities:

a. Siting, visual focal points, use of existing physical features such as topography, building orientation, variation in building groups such as clusters
b. Design features, architectural styles, harmonious use of building materials, landscaping, and pedestrian ways;
c. Extent and location of open space reservation relative total project area, proposed plans for use and management of such area, and the degree of preservation of natural features for any unimproved areas, or
d. Meets the definition of an affordable housing development as specified in section 10 of this bylaw.
e. The design and layout of the project preserves any recognized historic sites or structures and to the greatest extent feasible any natural features or resources of the site.
f. Adequate conditions and technical plans exist to insure the safe treatment of sewage and the provisions of a safe supply of drinking water for the project.

g. If the proposal involves a greater concentration of land uses within some section of the development than upon others, such greater concentration shall be offset by a lesser concentration in other section or sections or by an appropriate reservation of common open spaces on the remaining lands, which shall be recorded with the deeds of the parcels involved.
h. To encourage maintenance or enhancement of forest resources, wildfire habitats, and critical resource areas, the project shall be designed to protect these areas from future development by use of protective covenants, conservation easements or similar methods.

6.8.8.3 **Common Facilities, Common Land, & Land to be Conserved**

1. Land that is to be dedicated for common facilities or for the preservation and maintenance of areas of high public value (see below) may be held either in common or individual ownership, or it may be conveyed to the Town, should the Town choose to accept it.

2. Common Land. Land to be dedicated to shared facilities (e.g., private road, community wastewater and water supply systems, or other community facilities,), may be held in common, and will be subject to the legal requirements set forth below and in any other section of this Unified Development Bylaw. Land and/or facilities to be held in common shall be subject to appropriate deed restrictions and/or covenants stipulating their allowed use, and establishing the person or entity responsible for their regular maintenance and long term management. All costs associated with administering and maintaining common land and associated facilities shall be the responsibility of the applicant and subsequent property owners.

3. Land to be Conserved. Land to be dedicated to the preservation and maintenance of areas of high public value (see below) may be held in common or individual ownership, and may be located on one or more lots, although isolating such resources on a single lot is preferred by the Town. The ownership of the land or the benefit of an easement preserving such land shall be in a manner and form approved by the Development Review Board; such ownership or easement may be held by the municipality or a nonprofit land conservation organization, if such entities choose to accept such ownership or easement. Conservation and agricultural easement areas ("open space areas") shall be indicated with an appropriate notation on the final plat.

Areas of high public value include land characterized by:

- Land in active agricultural use,
- Primary (prime & statewide) agricultural soils,
- Steep slopes (equal to or in excess of 15%),

- Flood hazard areas,
- Surface waters, wetlands and associated setback and buffer areas,
- Shoreland setback and buffer areas,
- Critical wildlife habitat (as identified in Braintree Town Plan or as field delineated),
- Water supply source protection areas (SPAs),
- Historic districts, sites and structures,
- Scenic views and vistas within the Rural Scenic district, or
- Conserved land on adjacent parcels.

6.8.8.4 **Legal Requirements**

1. Documentation and assurances shall be provided that all required improvements and associated rights-of-way and easements and other common facilities and land will be adequately maintained either by the applicant, subsequent or other landowners, a homeowners' association, or through other accepted legal mechanism. Such documentation shall be in a form approved by the Development Review Board and filed in the Braintree Land Records.

2. All required improvements shall be constructed to approved specifications in accordance with a construction schedule approved by the Development Review Board. The Commission may require that all such improvements be completed prior to the issuance of an Administrative Permit or certificate of occupancy for subsequent development on approved lots. A performance bond or comparable surety acceptable to the Selectboard may be required to ensure that all improvements are completed to specification, in accordance with Chapter 7.

7. Subdivision Regulations

7.1 Purpose

This section of the Braintree Unified Bylaw is hereby adopted for the following purposes:

1. To ensure that development conforms to the policies set forth in the Braintree Town Plan. The DRB shall refer to the goals, policies, and action, and data contained in the Town Plan in making decisions.
2. To ensure that all development is compatible with the ecology, topography, geology, natural drainage, surface water runoff, groundwater resources, agricultural resources, historical resources, and present and potential uses of land identified in the maps and text of the Town Plan.
3. To ensure conformity and compatibility of development with other applicable laws, as presently enacted or as from time to time hereinafter enacted, including but not limited to: Zoning Ordinance, Health Ordinance, and Capital Program.

4. To protect and provide for the health, safety, and general welfare of the Town of Braintree, its property owners and its inhabitants.
5. To guide the future growth and orderly development of the Town.
6. To provide the most beneficial relationship between uses of land and buildings and the safe and convenient movement of pedestrian and vehicular traffic.
7. To provide for the conservation and protection of the natural, visual, and historical assets of the Town; the preservation of the existing rural character of the Town through the proper arrangement of uses on development parcels; the preservation of adequate open space between developments; and the preservation of land values and an adequate tax base.
8. To ensure that the development employs efficient and economic uses of energy which are consistent with the current technology.
9. To ensure that adequate facilities and services, such as parks and open spaces, recreation areas, schools, police and fire protection, off-street parking, and water supply and sewage disposal, are provided.
10. To control the rate of growth in Braintree in order to ensure that existing public services and facilities are available and will have a sufficient capacity to serve any proposed subdivision.

Major vs. Minor Subdivisions

The Braintree Unified Bylaw recognizes two types of subdivisions; Minor and Major (see sections 7.6 & 7.7 for details).

The difference between the two is scale and intensity. Any subdivision that creates three or more lots is a major subdivision and requires a more detailed application in order to be considered for an administrative permit.

7.2 Administrative Permit Required

As is specified in sections 2.1 and 5.1 of this Unified Bylaw, an Administrative Permit is required for all subdivisions. An administrative permit for a subdivision ensures that all created lots have the needed dimensions, have safe accesses to them, that access points onto public roads are minimized, and that the new lots do not result in undevelopable parcels, or parcels that unnecessarily fragment agricultural lands or forested areas.

Assuming the application for a subdivision is in compliance with this Bylaw and is complete, with the correct fee, a hearing will generally take place within 30 days, and a decision will be issued within 45 days after the final hearing. Assuming the application for subdivision is approved, an administrative permit will be issued within 30 days, which will become valid 15 days after issuance unless appealed. The subdivision must then be filed as a plat in the town records.

7.2.1 Exemptions

The following are not subdivisions for the purposes of this Regulation:

1. Annexations that result in the combination of any existing adjacent parcels into a single parcel for non-commercial use;

2. Agricultural leases; and
3. A minor boundary line adjustment between two adjacent lots involving no change in the number or use of lots, and resulting in a change of less than an acre of land of any involved lot.

7.3 Subdivision Waivers

As part of its approval, the Development Review Board may waive or vary, subject to appropriate conditions, the provisions of any or all application or review procedures, submittal and development requirements, as in its judgment of the special circumstances of a particular plat are not requisite in the interest of public health, safety and general welfare, nor required by the Act. Financial considerations alone shall not constitute a sufficient special circumstance.

The request for a waiver shall be made by the applicant, and it shall be the responsibility of the applicant to provide sufficient information to justify the waiver and to enable the Development Review Board to reach a decision. In such a case, the Board may move to waive certain requirements and approve the project with appropriate conditions. Any waivers granted under Chapter Seven shall pertain only to a subdivision application and will not in any manner vary provisions of this Unified Bylaw, the Town Plan, or other bylaws then in effect.

In granting waivers, the Board shall do so at the preliminary approval stage and require such conditions as will in its judgment secure substantially the objectives of the requirements varied or waived. Such waivers and their justification shall be in writing and included in the permit file.

7.4 Subdivision Categories - Minor versus Major

The division of a parcel existing on the date of adoption of this Bylaw resulting in two lots will be considered a minor subdivision.

Minor Subdivisions for residential uses may be approved and permitted by the Administrative Officer without the need for review by the DRB. All other minor subdivisions ~~than those intended for residential uses~~ may be permitted by the Administrative Officer after review and approval from the DRB~~, provided that the proposed subdivision meets the requirements of Section 7.5 of this Bylaw~~. All minor subdivisions shall meet the requirements of Section 7.5 of this Bylaw.

The Development Review Board may require minor subdivisions proposed for non-residential uses to provide information needed to determine compliance with the General Subdivision Standards (Sec. 7.8). All subdivisions resulting in three or more lots are major subdivision (see 7.7 of this chapter). Resulting lots shall be counted from the original lot in existence on the date of adoption of this Bylaw. The division, revision, or modification of a duly recorded plat which results in the third lot and any subsequent lots

from an original parcel that was in existence on the date of adoption shall be reviewed as a major subdivision.

All minor subdivisions in any District shall require the filing of a survey plat.

The division of a parcel or change in the boundaries of a parcel existing on the date of adoption of this Bylaw into more than two lots or interests, either by sale, gift, mortgage foreclosure, or court ordered petition or for the purpose, whether immediate or not, of sale, lease, or development, shall be considered a major subdivision.

A subdivision shall be deemed to have occurred on the filing of an approved survey plat in the Town land records.

7.5 Minor Subdivision Application Procedures

7.5.1 Minor Subdivision Procedure and Requirements

1. Applicants for a minor subdivision shall file an application with the Administrative Officer (AO) on a form approved by the DRB together with the appropriate fee established by the Selectboard.

2. The Application Form shall be accompanied by supporting documentation including:

a. a subdivision plat depicting the boundaries of the proposed subdivision.

b. descriptions and locations of any existing or proposed structures, rights-of-way, and easements,

c. reference to the Book and Page Number(s) from the Town Land Records describing the parcel involved, and

d. if applicable, an application to the Selectboard for an access permit.

3. Determination by the AO that the proposed minor subdivision for a residential use meets with the applicable land, area, and structural requirements for the district in which it is located and any other applicable dimensional standards as set forth in this Bylaw. All minor subdivisions shall also meet the general subdivision review standards in Section 7.8. The final survey plat for minor subdivisions for a residential use shall clearly state that the subdivision is approved for residential use only. Any future changes in use may require a new subdivision review and approval process.

4. Minor subdivisions for non-residential uses require determination by the DRB that the Application meets the General Subdivision Standards of Sec. 7.8.

5. Granting of an Access Permit by the Selectboard, if applicable.

7.5.2 Minor Subdivision Approval and Permitting

Upon the determination by the AO, and in the case of non-residential uses by the DRB, that the Application meets the requirements of Sec. 7.5.1 and upon receipt for recording of the final minor subdivision plat, the AO shall issue a permit serving as evidence by the Town that the subdivision is in compliance with this Bylaw and has been approved.

Failure to submit the final plat for recording within 180 days upon completion of the determinations shall render the Application void. Such plat shall be dated and stamped "Approved by the Town of Braintree as a Minor Subdivision Only".

7.5.3 Future Development of a Minor Subdivision

Unless the subdivision and its proposed development were applied for at the same time, any future non-residential development proposed on the subdivided parcel shall be subject to the rules and regulations of this Unified Bylaw.

7.6 Major Subdivision Application Procedures

7.6.1 Process

Whenever a Major Subdivision is proposed, before any construction, land clearing or building development is begun, before any contract of sale of all or any part of the proposed subdivision, or before any permit for the erection of any building in such proposed subdivision shall be granted, and before any subdivision plan may be filed with the Town Clerk, the subdivider or his/her authorized agent shall apply for and secure approval of such proposed subdivision in accordance with the following:

1. Form and Fee – The Application shall be made using the form approved by the DRB and shall be submitted together with the appropriate fee established by the Selectboard.

2. Plan Submittal - The subdivider shall submit for approval three (3) copies of a Subdivision Plan according to the Application Requirements set forth in Section 7.7 of these Regulations.

3. Preliminary Plan Review – An Applicant seeking guidance on the applicability of the General Subdivision Review Standards (Sec. 7.8) may request and the DRB may grant a Preliminary Plan Review based only upon the submission of items #1- 6 of the

Application Requirements (Section 7.7), together with a Draft Survey Map showing the location of:

- the lot and its abutters;
- all existing structures and roads;
- any streams, ponds, wetlands, and fields; and
- all proposed roads and building sites.

The Preliminary Plan Review shall be conducted at a warned Public Meeting to which all abutters have been given notice.

Any comments made by the DRB based upon such preliminary submission shall primarily be in the form of clarifying questions and shall not be binding on any final DRB findings or decision which can only be rendered upon a completed application and after closure of the Public Hearing. Any questions concerning the Application Requirements or the Public Hearing Review process should be addressed to the AO.

4. Public Hearing - Within thirty (30) days after formal submission of all plan information required under Section 7.7, the DRB shall conduct a public hearing to review conformance of the Plan with the General Subdivision Standards (Sec. 7.8); said hearing to be publicly warned at least fifteen (15) days in advance of the hearing date and to include a Site Visit at which no testimony will be taken.

5. Plan Approval - The DRB, within forty-five (45) days after the conclusion of the Public Hearing, shall approve, approve with modifications and/or conditions, approve with bond requirements, or disapprove the subdivision plan in accordance with its findings under Section 7.8 **General Subdivision Standards**. If disapproved the applicant shall be notified in writing of the reasons for disapproval. Failure to act within such forty-five (45) day period shall be deemed approval.

Each Plan Approval shall contain a time limit not to exceed three years, unless required or extended by the Development Review Board, within which all construction required under the permit shall be substantially completed. In granting Plan Approval, the Development Review Board may include a phasing plan and require a Performance bond.

6. Phasing - At the time the DRB grants Plan Approval, it may require the plan to be divided into two or more phases and may impose conditions upon each phase as it deems necessary to assure the orderly development of the plan and to avoid overburdening Town facilities and services.

If the roads, utilities, and other improvements required for a phase of the subdivision are not substantially completed by the date specified in the phasing plan for the relevant phase of development, the Plan Approval shall be rendered null and void, and all work on the project shall cease until such time as a new subdivision application has been submitted and has received Plan Approval from the Development Review Board.

7. Extensions - Notwithstanding the above, if good cause is demonstrated for delay of the project, up to a maximum of three one-year extensions may be granted by the Development Review Board after a public hearing. Such extensions shall be filed in the permit file. If extensions are granted any performance bonds shall also be extended likewise.

8. Plan Recording - Two (2) copies of the approved Subdivision Plan (consistent with 27 VSA, Sections 1401-1406) shall be filed with the Town Clerk for recording within one hundred eighty (180) days of the date of the Plan Approval or the approval expires. Prior to recording, the plan must be signed by two (2) authorized members of the Development Review Board.

9. Filing of Survey Plat - Within one hundred eighty (180) days of plan approval, the subdivider shall file the approved Survey Plat on reproduction mylar with the Town Clerk and one (1) **digital** copy with the Development Review Board. The plat shall be in compliance with state law, 27 VSA, Chapter 17.

10. Signing of the Survey Plat - For any subdivision which requires the construction of roads or other public improvements by the applicant, the authorized members of the Development Review Board may not sign the approved plan until the subdivider has:

a. Met the requirements, if any, of Section 7.15 Performance Bond Requirements, of these Regulations; or

b. Constructed all public improvements to the satisfaction of the Development Review Board and Selectboard that are to be by the subdivider unless and until they are taken over by the Town or a private association.

The plat will be rendered void if it in anyway is different from that approved by the DRB.

If the Application is for a Subdivision only, proposing no anticipated development requiring simultaneous Conditional Use and/or Site Plan Review, the plat shall be stamped indicating that any development is subject to Conditional Use and Site Plan Review Approval under Chapter Six of this Bylaw.

7.6.2 As-Built Drawings

As a condition for approval of a major subdivision, upon completion of all construction required under the Plan the Development Review Board may require the Applicant to provide “as-built” drawings showing the exact location of all roads, utilities, curb cuts, structures, and other installed improvements. “As-built" plans shall be submitted by the Applicant to the Administrative Officer as original ink drawings on mylar, 18"x24" size. Plans must be signed by a registered surveyor licensed in the State of Vermont.

7.7 Application Requirements for a Major Subdivision

The following information shall be submitted with every Plan for a subdivision application:

1. A completed Application Form approved by the DRB in duplicate, together with the appropriate Application Fee established by the Selectboard.

2. Identification of: the Parcel Number, its Deed of Reference, any existing easements, any previous subdivision approval(s), and any pertinent Survey Plats on file.

3. Evidence of written notification to all adjacent property owners.

4. A written description and dimensioned drawing of the intended development of the property, if known.

5. A statement of the general timing of any construction.

6. Description of the proposed water supply and sewage disposal systems.

7. A statement of the proposed subdivision's compliance with this Unified Bylaw together with copies of the approvals of other agencies having jurisdiction.

8. A Survey Plat certified by a licensed land surveyor of the subdivision drawn to scale, not to exceed one hundred (100) feet per inch, on reproduction mylar which contains all of the following:

a. Subdivision name or title, address at which it is located, scale, north point and date.

b. Name and address of subdivider.

c. Subdivision boundaries and lot boundaries of land being subdivided with reference to established boundaries or monuments.

d. Total acreage of the subdivision and the number of lots proposed with their individual acreage.

e. Existing restrictions on the use of the land including easements, covenants, rights-of-way and zoning boundaries.

f. Location of all existing buildings, utilities, and other artificial improvements.

g. Location of existing water courses, marshes, wooded areas, public facilities and other significant physical features in the subdivision.

h. Location of proposed or existing water supply and sewage disposal system.

h. Location of proposed roads, rights-of-way, and utilities showing their width, typical road profiles, and drainage.

i. Location of any proposed structures, if known.

j. Contiguous land owned by the applicant.

9. Granting of Easements - In the event of granting of easements to the Town of Braintree, a written acknowledgment of the subdivider' s responsibility for maintenance of easement areas until such land has been legally accepted by the Town.

10. A description of any proposed covenants, and/or deed restrictions which are intended to cover all or part of the subdivision.

7.8 General Subdivision Review Standards

7.8.1

All major and minor subdivisions shall be reviewed for compliance with the following standards. For subdivisions requiring DRB approval, the DRB shall find in the affirmative when reviewing an application that the proposed subdivision is in compliance with the Braintree Town Plan, this Unified Bylaw, and any other Municipal Ordinances in effect and that its development shall not unduly adversely affect its environs. To these ends, the DRB shall find in the affirmative that the subdivision:

1. Will not place an unreasonable burden on the ability of the Town to provide municipal or governmental services and facilities.

2. Has sufficient water available for the foreseeable needs of the proposed development.

3. Has sufficient sewage capacity available for the foreseeable needs of the proposed development.

4. Will not cause unreasonable highway congestion or unsafe conditions with respect to the use of Public Roads in the Town.

5. Is in compliance with this Bylaw's Road and Access General Regulations (Sec. 3.2, 3.18, 3.19, and 3.20).

6. Contains adequate provision for pedestrian traffic in terms of safety, convenience, access to points of destination, and attractiveness.

7. Demonstrates it has taken reasonable steps to preserve and protect existing features such as but not limited to trees, scenic points and roads, brooks, streams, rock outcroppings, water bodies, forest resources, other natural resources, critical wildlife habitat, priority forest blocks and habitat connectors, historic resources, prime agricultural land, open meadowland and class I and II wetlands as mapped by ANR on the Vermont Significant Wetlands Inventory.

8. Includes adequate provision for the control of runoff and erosion during and after construction. (Subdivisions that in their final form will have disturbed or created impervious surface enough to trigger state storm water permits will be required to obtain those prior to a plat being filed.)

9. Is compatible with surrounding properties.

10. Makes adequate provision for preservation of open land to the extent it is economically feasible.

11. Minimizes intrusion, if in the Conservation District, of development into productive parcels of forest land, priority forest blocks, and habitat connectors, and minimizes parcelization and fragmentation by concentrating development and leaving the bulk of the land in a contiguous undeveloped state.

12. Demonstrates reasonable attempts to preserve the rural character of the land in its lot layouts, building envelopes and cut lines.

13. Takes reasonable steps to cluster development in the Rural I, Scenic, and Conservation Districts.

14. Encourages energy conservation in its site layout by providing solar access.

15. Complies with any conditions included in a State Wastewater Permit, when the development requires an on-site sewage system or potable water, unless deed notice is given.

7.8.2 Completion of Infrastructure Improvements.

Approvals for major subdivisions shall contain a time limit within which all proposed public or jointly owned components (roads, utilities, facilities, etc.) shall be substantially completed. The time limit shall not exceed three years unless extended for unusual circumstances upon request of the applicant and approval of the Development Review Board.

7.9 Power and Telephone

The DRB may require the installation of underground power and telephone lines wherever it is appropriate to maintain and protect the visual character of an area or to maintain property values of adjacent property. A diagram showing location of utility lines shall be submitted with the as-built drawings (see Article 7.7.2).

7.10 Disclosure of Subsequent Development Plans

Whenever an applicant submits a proposal for development on only a portion of contiguous parcel, the DRB will require a general indication of the intended uses of the remaining portion of land. Such an indication should include access, type of use, intensity of use, and phasing.

7.11 Completion Date

Each approval for Final Subdivision Plan shall contain a time limit within which all improvements shall be completed not to exceed three (3) years unless extended by the DRB.

7.12 Revision of Approved Plan

No changes, modifications, or revisions that alter the conditions attached to an Administrative Permit shall be made unless the plan is first resubmitted to the DRB and the DRB approves such modifications after public hearing, if a hearing is required.

In the event that such subdivision plan is recorded without complying with this requirement, the plan and all approvals shall be considered null and void.

7.13 Public Acceptance of Roads and Open Spaces

Nothing in these Regulations shall be construed to constitute the acceptance by the municipality of any road, easement, utilities, park, recreation area, or other open space shown on the Final Subdivision Plan. The DRB may require the filing of a written agreement between the applicant and the Selectboard covering future deed and title, dedication and provisions for the cost of grading development, equipment and maintenance of any such improvements, or may require of an applicant an agreement to waive the future rights to petition to the Town to have roadways within the subdivision accepted as public roads. The DRB may require the filing of a written agreement between the applicant and the Selectboard waiving any existing or future claim by the applicant and/or his/her heirs, successors and assignees regarding the Town's obligation to accept any road or other improvement as a Town facility as shown on the Final Subdivision Plan and providing for the future of grading, development, equipment,

repair, and maintenance of any such road or other improvement by the applicant and/or his/her heirs, successors and assignees.

Consistent with the objectives of the Town Plan, and in accordance with 10 VSA, Section 6301, the Town may accept less than fee interest in property to protect its open, scenic, or resource value. Donation of such a conservation easement or development rights to a qualified non-profit organization or the Town of Braintree may also serve as means of meeting Town Plan objectives. In either case, written agreements between the parties shall be required.

7.14 Compliance with other Bylaws or Ordinances

Nothing in these Regulations shall be so construed as to supersede the conditions and criteria for permit approval set forth in this or other bylaws or ordinances in effect. This includes, but is not limited to, conditional use criteria and Planned Unit Development requirements set forth in the previous sections of this Bylaw, and water and sewer requirements stipulated in an adopted Health Ordinance.

7.15 Performance Bond Requirements

The Development Review Board may require from the applicant, for the benefit of the Town, a performance bond in an amount sufficient to cover the full cost of constructing any public improvement that the DRB may require in approving the project; such performance bond to be submitted prior to Final Subdivision Plan approval.

Security that the project shall be completed as approved may be required in the form of:

1. A surety bond, issued by a safety company authorized to do business in Vermont to be filed with the Selectboard in a form and amount satisfactory to it ,or
2. A letter of credit, cash, escrow account or savings bank book properly endorsed to the Town in the amount to be determined by the Selectboard, or
3. A performance bond from the developer or contractor.

The performance guarantee shall not be released until the Development Review Board has certified completion of the improvements in substantial accordance with the approved Final Subdivision Plan. The performance bond shall run for a term to be fixed by the DRB, but in no case for a longer term than three (3) years. However, the term of such a bond may, with the consent of the owner, be extended for an additional period not to exceed three (3) years.

If any required improvements have not been installed or maintained as provided within the term of such performance bond, such bond shall be forfeited to the municipality and upon receipt of the proceeds thereof, the municipality shall install or maintain such improvements as are covered by such performance bond.

The DRB may also require surety covering the maintenance of said improvements for a period of two (2) years after acceptance by the Town; said surety to be equal to but not less than 10 percent (10 %) of the estimated cost of those improvements.

7.16 Legal Data

Where applicable to a specific subdivision, the following may be required prior to approval of the Final Subdivision Plan:

1. An agreement to convey to the Town, land and/or Development Rights to be used for roads, open space and other public purposes;
2. An agreement to maintain roads, parks, recreation areas and other improvements in the future and to waive any claim regarding the Town's obligation to accept said improvements as Town facilities;
3. Descriptions of easements and rights-of-way over other property to remain in private ownership; and
4. Description of easements to drain onto or across other property.

8. Nonconformities, Waivers and Variances

8.1 Nonconformities

Structures and Uses that are in existence prior to the adoption of this unified Bylaw that do not meet the requirements of this unified Bylaw are considered "Nonconformities" (see definitions). These nonconformities are subject to specific requirements in the event that a change in design or use is requested.

8.1.1 Nonconforming Uses

Any use of land, including use of a structure on the land, legally in existence as of the effective date of these regulations which does not meet the requirements of these regulations shall be considered a nonconforming use. A nonconforming use may be continued indefinitely subject to the following limitations:

1. A nonconforming use may be changed to another nonconforming use with the approval of the DRB, subject to conditional use review under chapter 6 of this Bylaw and a determination by the DRB that the new use is less disruptive and more similar in character and impact with other uses in the district.
2. A nonconforming use shall not be reestablished if it has been changed to or replaced by a conforming use, or it has been discontinued or abandoned for a period of one year, regardless of the intent to resume the nonconforming use, as intent does not confer right. The DRB may extend the threshold for discontinuance and abandonment for one (1) year upon good cause shown after notice and hearing.
3. A nonconforming use may be reestablished within a structure or portion thereof which has been damaged or destroyed, only if repair or reconstruction of the structure is started within one (1) year of the date of such damage and is completed within two (2) years of the date of such damage. The DRB may extend the completion period for one (1) year upon good cause shown after notice and hearing.

8.1.2 Nonconforming Structures

Any structure, or portion thereof, legally in existence as of the effective date of these regulations which does not meet the requirements of these regulations shall be considered a nonconforming structure. A nonconforming structure may be occupied indefinitely, subject to the following limitations:

1. A nonconforming structure may undergo normal maintenance and repair without an Administrative Permit, provided that such action does not increase the degree of nonconformity.
2. A nonconforming structure that has been damaged by any cause may be reconstructed with the issuance of an Administrative Permit, either to its prior

size and condition, or to a smaller or larger size than the original, as long as any nonconformities are not increased, but only if such reconstruction is commenced within one (1) year from the date of the damages and completed within two (2) years of the date of the damages. If the nature of the damage or destruction is such that reconstruction within the foregoing time period would create a hardship, then the DRB may extend the permit period for such reconstruction one (1) year after notice and hearing.

3. Except as allowed by the waiver process (see section 8.2), non-conforming structures shall not be moved, enlarged, altered, extended, or reconstructed in any way that increases the degree of non-conformity (See definitions: Degree of Nonconformity). Additions to nonconforming structures which result in coverage of additional ground area but do not extend the structure any closer to a roadway or property line are not considered as an increase in the degree of non-conformity. Additionally, the development may not create a greater nuisance, detriment to the public health, safety or welfare than the original nonconforming structure.

8.1.3 Special Provisions for Non-Conforming Mobile Home Parks

If a mobile home park, as defined in 10 V.S.A. Chapter 153, is a nonconformity pursuant to these Bylaws, the entire mobile home park shall be treated as a nonconformity, and the individual lots shall not be considered to be a nonconformity under these Bylaws, except as provided below. No pre-existing nonconforming mobile home park may be resumed if such use has been abandoned for a period of six months or more. Mobile home parks shall be considered abandoned when the whole park is vacant for a period of six months or more. An individual mobile home lot that is vacated shall not be considered abandoned In accordance with 24 V.S.A. Sections 4412 (1)(B) & (7)(B), existing, nonconforming mobile home parks shall comply with this section.

Any mobile home within the nonconforming mobile home park may be altered, expanded, or replaced, providing:

1. the applicant provides proof of adequate wastewater capacity; and
2. the expansion or replacement will not:
3. be located less than ten (10), feet from any other primary structure(s);
   a. obstruct or prohibit ingress or egress for any primary structure;
   b. obstruct or prohibit mobility or replacement of any primary structure;
   c. obstruct or prohibit the provision of emergency services;
   d. obstruct existing utilities or rights of way; nor
   e. threaten or unduly degrade public health, safety, or welfare

The standards above may be waived after conditional use review by the DRB, provided the applicant demonstrates that adherence to these standards would have the effect of prohibiting the replacement of a mobile home on an existing lot. In approving this waiver, the DRB may impose conditions requiring design features, screening, or some other remedy in order to mitigate anticipated impacts of any such waiver.

8.2 Waivers and Variances

There are times when, for specific reasons, a proposed use cannot fit the requirements of a permitted or conditional use. This regulation allows for such unusual development, but only within certain bounds through the processes that follow. Development that is already a non-conforming use, due to valid land uses that predate this Bylaw, may be changed with approval from the Development Review Board only as outlined below. Applicants for new development that only needs a dimensional change from the established standards (such as a reduction in setback) may be able to get a waiver. These are issued by the Administrative Officer for certain conditions, and the Development Review Board for others. Applicants for development that cannot get a waiver and that cannot be permitted in strict conformance with the Bylaw, may be able to get a variance from the Development Review Board after meeting a rigorous five-part test.

8.2.1 Qualifying for a Waiver

Waivers shall be granted as a permitted use by the Administrative Officer to reduce dimensional requirements only as specified under each district in section 8.2.2, and waivers may be granted by the Development Review Board, after a formal public hearing, to reduce any dimensional requirements of any district if the proposed development meets the criteria in section 8.2.2.

8.2.2 Waiver Standards

In all districts, waivers may be granted without a hearing by the Administrative Officer for:

1. Reductions in front or side setbacks as necessary to allow for disability access;
2. Reductions in side setbacks to allow for necessary life safety improvements;

In all districts, waivers may be granted after a hearing by the Development Review Board if the waiver will not result in a greater than 50% decrease in any dimensional requirement (provided that the structure does not enter the right-of-way), and any one or more of the following criteria are met:

3. The proposed development conforms to the existing development patterns of the district; or
4. The proposed development will cluster development and more effectively preserve open land, forest land, or scenic vistas; or
5. The proposed development will result in permanently affordable housing units.
6. provides for mitigation through design, screening or other reasonable remedy; or
7. provides for energy conservation and renewable energy structures; or
8. cannot be reasonably accommodated within the dimensional standards of the Development Bylaw.

8.2.3 Appeal for Variance

When approval or a permit for a structure or use has been denied, or upon referral from the AO, an applicant may appeal this denial and apply for a variance, which would allow the structure or use. A variance is not a form of relief, but rather a process that takes into account individual factors that may have precluded the issuance of a permit under the more standard permitting or approval processes. Except as specified in §4469(b) of the Act for renewable energy structures, variances shall be, and only be, granted upon a written finding that **ALL of the following facts are true**:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions, and not the circumstances or conditions generally created by the provisions of this Bylaw, in the neighborhood or district in which the property is located.
2. That because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Bylaw, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
3. That the unnecessary hardship has not been created by the appellant.
4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, 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. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from this Bylaw and from the town plan.

Variances within the Floodplain Overlay District may be granted in writing by the DRB only in accordance with all the criteria in 24 V.S.A. § 4469, § 4424 (E), and 44 CFR Section 60.6 6, after a public hearing noticed as described in Section 9 of this document. Within the Floodplain Overlay District these additional criteria apply:

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

2. Any variance issued in the Special Flood Hazard Area will not increase flood heights, and 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.

In rendering a decision in favor of an appellant under this section, the Development Review Board may attach such conditions to the variance as it may consider necessary and appropriate under the circumstances to implement the purposes of the Act and the Town Plan. The Development Review Board must grant or deny the variance within 45 days of the final hearing or approval will be automatically given on the 46th day. Copies of the decision will be promptly mailed to the applicant by certified mail, and by first class mail to every person or body appearing and having been heard at the hearing(s), and also filed with the Administrative Officer and the Town Clerk.

In the event of a Variance in the Floodplain Overlay District, a copy of such a variance shall be affixed to the deed of the property on file in the municipal clerk's office.

8.2.4 Variances for Renewable Energy Resource Structures

The DRB shall hear and decide an appeal for a request for a variance from the provisions of a Bylaw for a structure that is primarily a renewable energy resource structure as required by Section 4469(b) of the Act. The DRB shall grant a variance and render a decision in favor of the appellant if **all of the following facts are found**, and the findings are specified in its written decision:

1. It is unusually difficult or unduly expensive for the applicant to build a suitable renewable energy resource structure in conformance with the Unified Bylaw;
2. The hardship was not created by the applicant;
3. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable resources, or be detrimental to the public welfare; and
4. The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from the Unified Bylaw and from the Town Plan.

8.3 Appeal of Change to Non-Conformity Variance or Waiver

See appeals in section 9.3 for more information on the appeal process.

9. Administration and Enforcement

9.1 Notice of Public Hearings

At least one warned public hearing shall be required of the DRB for conditional use approval, variances, Administrative Officer appeals, site plan review, and final plat review for subdivisions. Notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all of the following:

1. Publication of a notice at the applicant's expense by the Administrative Officer in a newspaper of general circulation in the Town of the date, time, place, and purpose of the hearing; a description of the proposed project; where additional information may be obtained; and that participation in the hearing is a prerequisite to the right to take any subsequent appeal.
2. Posting of the same information by the Administrative Officer in three or more public places within the municipality, including at least the Town Office.
3. Posting of the same information by the applicant on a form provided by the town within view from the public right of way most nearly adjacent to the property for which an application is made. Such outdoors posting shall be posted no closer than 7 feet to the traveled surface. Posting on private property outside the right-of way requires landowner permission. The applicant must provide a signed certificate of posting at the hearing.
4. Mailing or hand delivery by the applicant of a copy of the public posting by first class mail to owners of all properties adjoining the property subject to development, without regard to any public right-of-way. The applicant must provide a signed certificate of service at the hearing, or return receipts if they choose to use certified mail.
5. Written notification to any neighboring town's clerk if the proposed subdivision is within 500 feet of that town.

If additional hearings are needed for additional information, the first hearing may be recessed to a later date and time specified at the first hearing without requiring new notice. If the first hearing is closed and any additional hearings are needed, the notice requirements above apply.

Any decision shall be sent by certified mail to the applicant, appellant and other parties in accordance with current Vermont statutes.

9.2 Decisions

Any action or decision of a Development Review Board shall be taken by the concurrence of a majority of the members of the DRB. In accordance with the Act [§4464(b)], the Development Review Board shall issue a decision within 45 days after the adjournment of the hearing. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective the 46th day. 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 evidence of the record. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals may be taken under Section 9.3.

   Within the Floodplain Overlay District, the DRB shall consider comments from the NFIP Coordinator at ANR. The DRB may recess the proceedings on any application pending submission of additional information.

2. In rendering a decision in favor of the applicant, the Development Review Board may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of the Act, these regulations, and the municipal plan currently in effect. This may include, as a condition of approval:

   a. the submission of a three-year performance bond, escrow account, or other form or surety acceptable to the Selectboard, which may be extended for an additional three-year period with the consent of the owner, to assure the completion of a project, adequate stabilization, or protection of public facilities that may be affected by a project; and/or

   b. a requirement that no Administrative Permit be issued for an approved development until required improvements have been satisfactorily installed in accordance with the conditions of approval.

3. All decisions of a Development Review Board shall be sent by certified mail, within the required 45-day period, to the applicant or the appellant on matters of appeal. Copies of the decision also shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Administrative Officer and Clerk as part of the public record of the municipality.

9.3 Appeals

9.3.1 Appeals of the Administrative Officer

Any interested person may appeal any decision or act taken by the Administrative Officer by filing a notice of appeal with the secretary of the Development Review Board or with the Clerk of the municipality. If the appeal is made with respect to any decision or act of the Administrative Officer, such notice of appeal must be filed within fifteen (15) days of the date of such decision or act, and a copy of the notice of appeal shall be filed with the Administrative Officer.

A notice of appeal filed under this section shall be in writing and include the following information, in accordance with the Act [§4466]:

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

9.3.2 Appeal Process

6. The Development Review Board shall hold a public hearing on a notice of appeal within 60 days of its filing, as required under the Act [§4468]. The DRB shall give public notice of the hearing under Section 9.1, and mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.

7. The DRB may reject an appeal or request for reconsideration without hearing, and render a decision which shall include findings of fact within 10 days of the filing of a notice of appeal, if the Board determines that the issues raised by the appellant have been decided in an earlier appeal or are based on substantially or materially the same facts by or on behalf of the appellant [§4470].

8. In accordance with the Act [§4468], all appeal hearings shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in state statutes [3 V.S.A. §810]. Any interested person (see 9.3.3) or body may appear and be heard in person or be represented by an agent or attorney at the hearing. The hearing may be adjourned by the DRB from time to time, provided that the date and place that the hearing shall be reconvened is announced prior to adjournment.

9. A decision on appeal shall be rendered within 45 days after the final adjournment of the hearing, as required under the Act [§4464(b)]. The decision shall be sent by certified mail to the appellant within the 45 day period. Copies of the decision shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Administrative Officer and the Municipal Clerk as part of the public records of the municipality, in accordance with Section 9.2. Failure of the DRB to issue a decision within this 45 day period shall be deemed approval and shall be effective on the 46th day.

9.3.3 Interested Persons

The definition of an interested person under the Act [§4465(b)] includes the following:

1. a person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a Bylaw, who alleges that the Bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case;

2. the Town of Braintree or any adjoining municipality;

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

4. any twenty (20) persons who may be a combination of voters, residents, or real property owners within the municipality who, by signed petition to the Development Review 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. This petition to the Development Review Board must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal. For purposes of subdivision, an appeal shall not include the character of the area affected if the project has a residential component that includes affordable housing; and

5. 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.

9.3.4 Appeals to Environmental Court

An interested person who has participated in a proceeding before the Development Review Board may appeal a decision to the Vermont Environmental Court in accordance with current Vermont statutes. Participation in a proceeding shall consist of offering, through oral or written testimony, evidence or statement of concern related to the subject of the proceeding. In the event that a notice of appeal is properly filed, any permit, approval or action shall not take effect until final adjudication of said appeal.

9.4 Violations and Enforcement

The commencement or continuation of any land development that does not meet the requirements of these regulations shall constitute a violation. All violations shall be pursued in accordance with the Act [§§4451, 4452]. Each day that a violation continues shall constitute a separate offense. The Administrative Officer shall institute, in the name of the Town of Braintree, any appropriate action, injunction or other proceeding to enforce the provisions of these regulations. All fines imposed and collected shall be paid over to the municipality.

Within the Floodplain Overlay District the following additional provisions apply:

1. It shall be the duty of the Administrative Officer to enforce the provisions of this Bylaw under 10 VSA §1974a, 24 VSA §4451 and §4452 in accordance with the Unified Bylaw of the Town of Braintree. A copy of the notice of violation will be mailed to the State National Flood Insurance Program Coordinator.
2. Violations of the Accepted Agricultural Practices shall be enforced as violations of the municipal Bylaw. Such violations shall also be immediately reported to the Secretary of Agriculture for enforcement under 6 V.S.A. Section 4812.

9.4.1 Notice of Violations

No action may be brought under this section unless the alleged offender has had at least seven (7) days' warning notice by certified mail that a violation exists, as required under the Act [§4451]. The notice of violation also shall be recorded in the land records of the municipality under Section 5.7. The notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven-day notice period, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the regulations after the seven-day notice period and within the next succeeding 12 months.

For violations in the Floodplain Overlay District the following applies:

1. If the violation remains after all appeals have been resolved, the AO shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance for the property pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

9.4.2 Limitations on Enforcement

An action, injunction or other enforcement proceeding relating to the failure to obtain or comply with the terms and conditions of any required or duly recorded municipal land use permit may be instituted against the alleged offender if the action, injunction or other enforcement proceeding is instituted within 15 years from the date the alleged violation first occurred, and not thereafter, in accordance with the Act [§4454]. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted. No enforcement proceeding may be instituted to enforce an alleged violation of a municipal land use permit unless the permit or a notice of the permit has been recorded in the land records of the municipality under Section 5.7.

10. Definitions

Words, phrases, and terms that are not defined within the text of the Bylaw or below shall have their usual and customary meaning, except where the context clearly indicates a different meaning. Any interpretation of words not defined herein by the Administrative Officer may be appealed to the Development Review Board. In such cases, the Board shall base its ruling upon the following definitions, State statute, and the need for reasonable and effective implementation of this Bylaw.

The words and terms used shall be construed as follows:

- The particular controls the general;
- The present tense includes the future tense;
- Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary;
- The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," and "occupied for;"
- The words "shall," "must" and "will" are mandatory; the word "may" is permissive.
- The word "person" includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.

Many items are defined below, but this does not necessarily mean they will be regulated under this Bylaw. Please refer to section 2.2 for the types of development that are not regulated.

10.1 Terms and Uses

For the purposes of this Bylaw, the meanings of words, terms, and phrases shall be interpreted as defined below and all other words shall be presumed to have their customary meanings. Any interpretation of words, phrases, or terms by the Administrative Officer may be appealed to the Development Review Board under Section 9.3 for clarification. The Board shall base its interpretation on the following definitions, state statutes, the purposes of this Bylaw, and the need for reasonable and effective implementation of this Bylaw. The Board shall maintain a record of its rulings to ensure consistent and uniform application of the terms of this Bylaw.

10.1.1 A

ACCESSORY BUILDING - See definition for Accessory Structure.

ACCESSORY DWELLING – See Dwelling, Accessory.

ACCESSORY ON FARM BUSINESS – Activity on a farm, the revenues of which may exceed the revenues of the farming operation, and comprises one or both of the following:

1. The storage, preparation, processing, and sale of qualifying products, provided that the qualifying products are produced on a farm; the sale of products that name, describe, or promote the farm or accessory on-farm business, including merchandise or apparel that features the farm or accessory on-farm business; or the sale of bread or baked goods.
2. Educational, recreational, or social events that feature agricultural practices or qualifying products, or both. Such events may include tours of the farm, farm stays, tastings and meals featuring qualifying products, and classes or exhibits in the preparation, processing, or harvesting of qualifying products. As used in this subdivision (2), "farm stay" means a paid, overnight guest accommodation on a farm for the purpose of participating in educational, recreational, or social activities on the farm that feature agricultural practices or qualifying products, or both. A farm stay includes the option for guests to participate in such activities.

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

ACCESSORY USE - A use customarily incidental and subordinate to the principal use.

ADAPTIVE REUSE – The use of a historic building or structure for other than its originally intended use or purpose, in a manner which maintains its historic features and character, in accordance with the requirements of these regulations, including those specified in Section 3.23 of this bylaw.

ADMINISTRATIVE OFFICER (AO) - A person, or their acting replacement, who is in charge of the administration of this Bylaw and performing duties assigned to an administrative officer in 24 VSA chapter 117.

AFFILIATED OWNERSHIP - Properties or buildings owned by the same individual or that individual in partnership with any other person or persons is considered affiliated ownership.

AFFORDABLE HOUSING - Affordable housing is defined as either of the following:
A. Owner-occupied housing for which the total annual cost of ownership, including principal interest, taxes, insurance, and condominium fees, does not exceed 30 percent of the gross annual income of a household at 120% of the county median income as defined by the U.S. Department of Housing and Urban Development.

B. Rental housing for which the total annual cost of renting, including rent, utilities, and condominium association fees, does not exceed 30 percent of the gross annual income of

a household at 80% of the county median income as defined by the U.S. Department of Housing and Urban Development.

AFFORDABLE HOUSING DEVELOPMENT – A housing development of which at least 20 percent of the units or a minimum of five units, whichever is greater, are affordable housing units. Affordable units shall be subject to covenants or restrictions that preserve their affordability for a minimum of 15 years. (See statutory definition 24 VSA § 4303)

ANTENNA - A device attached to a tower or similar structure for transmitting or receiving electromagnetic waves.

AMP (APPROPRIATE MUNICIPAL PANEL) - means a planning commission performing development review, a board of adjustment, a development review board, or a legislative body performing development review.

AREA OF SPECIAL FLOOD HAZARD - is synonymous in meaning with the phrase "special flood hazard area" for the purposes of these regulations.

10.1.2 B

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

BASE FLOOD ELEVATION (BFE) - is the elevation of the water surface elevation resulting from a flood that has a 1 percent chance of equaling or exceeding that level in any given year. On the Flood Insurance Rate Map the elevation is usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or the average depth of the base flood, usually in feet, above the ground surface.

BASEMENT - means any area of the building having its floor elevation below ground level on all sides.

BED AND BREAKFAST - A building used as a dwelling unit and operated for public lodging, providing rooms and meals for lodging guests only.

BFE - see Base Flood Elevation

BUILDING - Structure having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals or chattel.

BUFFER – Any space between adjoining uses intended and designated to reduce the impact of one use upon the other, including open space, woodland, landscaped areas, and other types of visual and sound barriers.

10.1.3 C

CBES – Commercial Building Energy Standards for the State of Vermont.

CHANGE IN USE - A change or increase in the scale, intensity, type of activity, hours of operation, or physical setting of the use.

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

CHANNEL WIDTH - (or bankfull width) is the width of a stream channel when flowing at a bankfull discharge. The bankfull discharge is the flow of water that first overtops the natural banks. This flow occurs, on average, about once every 1 to 2 years.
CLUB, PRIVATE - A building or land use catering exclusively to club members and their guests for recreational purposes and not operated primarily for profit.

COMMERCIAL USE - A use of land and buildings with direct access to a State highway for the provision of facilities, goods or services by a person to others in exchange for payment of a purchase price, fee contribution, donation or other object or service having value.

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

COMMUNITY CENTER - Includes public or private meeting hall, place of assembly, museum, art gallery, library, places of further education and church - all not operated primarily for profit.

COVERAGE - The percentage of surface area of the lot covered by impervious surfaces, including roofed structures, and parking or roads (paved or gravel).

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 sources for food and gas.

10.1.4 D

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

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

DEVELOPMENT REVIEW BOARD (DRB) - A local body as authorized under 24 VSA chapter 117.
DRIVEWAY – A privately owned easement or right-of-way which provides the principal means of access to a lot or development from either a Public Road or a Private Road. When a driveway provides access to more than one lot or to uses other than two principal residences on a lot, it is considered to be a Private Road.

DUPLEX – See Dwelling, Two-Unit

DWELLING, ACCESSORY - A distinct unit that is clearly subordinate to a single-unit dwelling and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. Synonymous with Accessory Dwelling.

DWELLING, SINGLE-UNIT – Any use of land or structure comprising one dwelling unit in a primary structure. For the purposes of this bylaw, the term also includes a state-licensed Residential care home, group home, or recovery residence, serving not more than eight persons. ,

DWELLING, TWO-UNIT – Any use of land or structure comprising two dwelling units in a primary structure. Synonymous with duplex.

DWELLING, MULTI-UNIT – Any use of land or structure comprising three or more dwelling units in a primary structure.

DWELLING, THREE AND FOUR UNIT – Any use of land or structure comprising three or four dwelling units in a primary structure.

DWELLING, 5+ UNIT – Any use of land or structure comprising five or more units in a primary structure.

DWELLING UNIT – A residential unit consisting of one or more rooms designed, occupied or intended for occupancy, as a separate living quarters, with cooking, sleeping and sanitary facilities provided within that space for the exclusive use of one or more persons maintaining a household. The terms 'dwelling', 'single-unit dwelling', 'two-unit dwelling', 'multi-unit dwelling' shall not include a motel, hotel, bed and breakfast, tourist home or similar structure.

10.1.5 E

EMERGENCY SHELTER – Any facility, the primary purpose of which is to provide a temporary shelter for the homeless in general or for specific populations of the homeless and that does not require occupants to sign leases or occupancy agreements.

ENCROACHMENT – Fill or development that reduces the functional river corridor (impairs the equilibrium condition) or increases flood levels.

EXCAVATION - The removal of earthen or stone material by machinery.

EXTERIOR LIGHTING - This term shall not include customary temporary seasonal decorations.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - means 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 - means 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).

10.1.6 F

FARM - See statutory definition, 24 VSA § 4412 (11)(A)(ii).

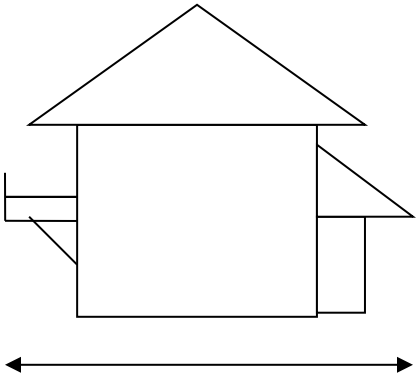
FARM STRUCTURE - A building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with required agricultural or farming practices, including a silo, as "farming" is defined in subdivision 6001(22) of Title 10, but excludes a dwelling for human habitation.

FENCE - Except as is incidental to an accepted agricultural practice, any structure or earth berm which has the effect of creating a barrier to visibility or access.

FILL - means any placed material that changes the natural grade, increases the elevation, or diminishes the flood storage capacity at the site.

FIRM - see Flood Insurance Rate Map

FOOTPRINT - The outer horizontal boundaries of the structure’s limits, including decks.



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

FLOOD INSURANCE RATE MAP - (FIRM) means 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 - means 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 - means any land area susceptible to being inundated by water from any source (see definition of "flood").

FLOOD-PROOFING - means 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 - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively

increasing the water surface elevation more than one foot at any point. Please note that Special Flood Hazard Areas and floodways may be shown on separate map panels.

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

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

FRONTAGE - That portion of a lot which is adjacent and parallel to a State highway, Town street, Town road or Town right-of-way. In the case of corner lots, it shall be that portion that has, or is proposed to, have access.

FRONT SETBACK - The shortest allowed distance from the edge of the public or private road right-of-way to the nearest portion of the structure's footprint. When the right-of-way is not easily discernable, the edge shall be deemed to be ½ of the recorded right-of-way's width from the centerline of the traveled road.

FRONT YARD - The distance from the centerline of the traveled road to the nearest portion of the building.

10.1.7 G

GOVERNMENTAL FUNCTIONS - Public buildings or uses typically associated with local, state or federal government entities or purposes.

10.1.8 H

HABITABLE - Intended for use as living quarters.

HAZARDOUS WASTE - Those substances defined as hazardous waste by the Agency of Natural Resources under Chapter 7 of the Vermont Environmental Protection Rules.

HISTORIC STRUCTURE - means any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(i) by an approved state program as determined by the Secretary of the Interior, or (ii) directly by the Secretary of the Interior in states without approved programs.

HOME OCCUPATION - Activities conducted within a dwelling or accessory building by the residents thereof, which is clearly secondary to the dwelling's use as living quarters and does not change the character thereof, excluding junkyards and any activity that generates hazardous waste.

HOME ENTERPRISE - A business use conducted by the resident of the home on the same lot which meets the standards set forth in Section 6.10.3 of this Bylaw, excluding junkyards and any activity that generates hazardous waste. Not to be confused with Home Occupation.

HOUSEHOLD – All the people, whether related or not, who occupy a dwelling unit as their place of residence.

HOSPITAL - Includes a sanitarium, clinic, rest home, nursing home, convalescent home, home for the aged, and any other place of diagnosis or treatment of human ailments.

10.1.9 I

INDUSTRY - A use that is primarily manufacturing or processing, including landfill, and not generally catering to the public.

10.1.10 J

JUNKYARD - Any place of outdoor storage or deposit which is maintained, operated or used in connection with a business for storing, keeping, processing, buying or selling junk or scrap. In addition, the term means any place of outdoor storage or deposit, not in connection with a business, which is maintained or used for storing or keeping four or more junk motor vehicles. This does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.

JUNK MOTOR VEHICLE - Any discarded, dismantled, wrecked, scrapped or ruined motor vehicle, or parts thereof; an unregistered motor home not connected to water or sewer; or a vehicle, other than an on-premise utility vehicle, which is allowed to remain unregistered for 30 days from the date of discovery.

10.1.11 L

LAND SUBDIVISION - The dividing of a parcel of land by sale, gift, lease, mortgage foreclosure, and court-ordered partition, or the filing of a subdivision plat in the Braintree Land Records where the division results in two or more lots within the bounds of the original parcel.

LARGE GROUP HOME – A state-licensed residential care home serving more than eight persons who have a disability as defined in 9 V.S.A. § 4501, or a recovery residence serving more than eight persons.

LETTER OF MAP AMENDMENT (LOMA) - is 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.

LIGHT INDUSTRY - A non-polluting industry with direct access to a State highway contained in less than 20,000 square feet involving the manufacture of goods and equipment for the purpose of sale or profit. The conversion into another form, storage or transportation of raw materials for the purpose of sale or profit, or the storage or transportation of wholesale or retail goods on a large scale.

LOT - A single parcel of land, whether created by lease or deed, usually, but not necessarily always, occupied or to be occupied by a building and its accessory buildings. It must have the required open spaces, having not less than the minimum area, width and depth required for a lot in the district in which such land is situated, and having frontage on a road, or other means of access as may be determined by the DRB to be adequate as a condition of the issuance of a building permit for building on such land.

LOT AREA - The total land area within the boundaries of a lot, exclusive of any land area designated for a public road as measured to the boundary of such right-of-way or easement.

LOT LINE - A line of record bounding one lot from an adjoining lot, or from a Town or State highway right-of-way, rivers, or railroad line.

LOT WIDTH - the smallest distance across the lot measured parallel to the frontage side of the lot.

LOWEST FLOOR - means 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.

10.1.12 M

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

MANUFACTURED HOME PARK OR SUBDIVISION (Mobile Home Park) - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MINOR SUBDIVISION - Any subsequent partitioning of a parcel existing on the date of adoption of this Bylaw, where the subdivision will result in two lots within the boundaries of the parcel, or an amendment, revision, or modification to a recorded plat, the result of which creates an additional lot within the bounds of the original parcel that existed on the date of adoption. Further subdivision of any parcel previously subdivided after the date of adoption will require an Administrative Permit under the Subdivision Regulations.

MAJOR SUBDIVISION - The division of a parcel, existing on the effective date of this Bylaw, into six or more lots. The subsequent division, revision, or modification of a duly recorded plat which results in three (3) or more lots from the original parcel shall be reviewed as a major subdivision.

10.1.13 N

NEW CONSTRUCTION - for regulation under this Bylaw, means structures for which the start of construction commenced on or after the effective date of this Unified Bylaw adopted by the community and includes any subsequent improvements to such structures.

Within the Floodplain Overlay District, “NEW CONSTRUCTION” also means structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by the community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION - means 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.

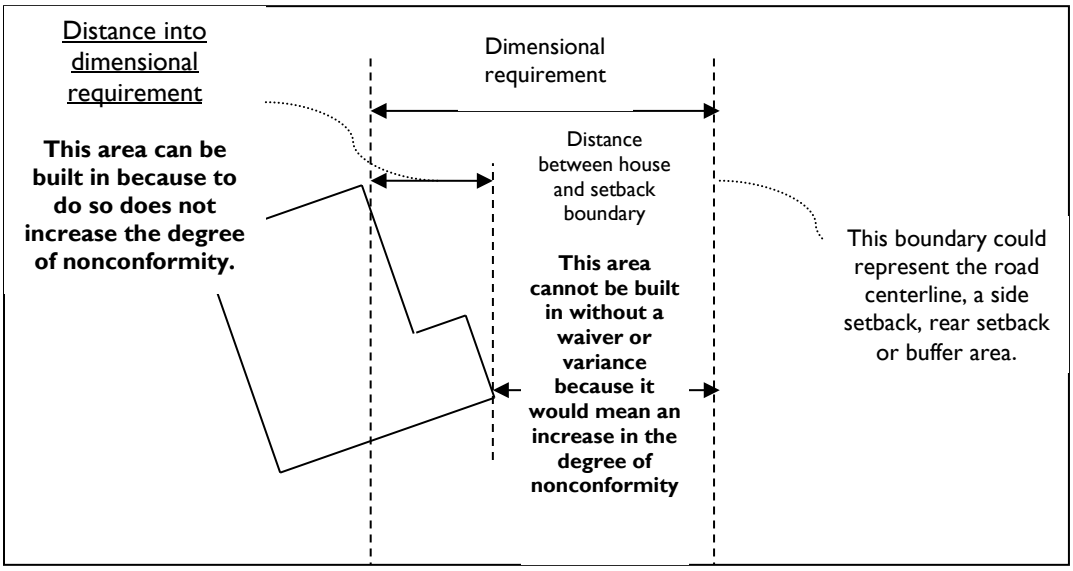
NONCONFORMING STRUCTURE - means a structure or part of a structure that does not conform to the present Bylaws but was in conformance with all applicable laws, Ordinances, and regulations prior to the enactment of the present Bylaws, including a structure improperly authorized as a result of error by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

NONCONFORMING USE - means use of land that does not conform to the present Bylaws but did conform to all applicable laws, Ordinances, and regulations prior to the

enactment of the present Bylaws, including a use improperly authorized as a result of error by the administrative officer.

NONCONFORMITY - means a nonconforming use, structure, lot, or parcel.

NONCONFORMITY, DEGREE OF - In plain language, the degree of non-conformity is the linear distance that the non-conforming structure protrudes into the setback. (see diagram below.)



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.

NON-RESIDENTIAL USE - All uses of buildings, structures or land except single-unit dwellings, two-unit dwellings, multi-unit dwellings, home occupational uses and accessory structures to these uses.

10.1.14 O

OFFICE - Office use, which may be part of a larger building.

OUTDOOR RECREATION - A parcel containing including internal driveways and parking areas, and structures, equipment or manmade improvements for the primarily outdoor conduct of teaching sports, leisure time activities, and other customary and usually participatory recreational activities including, but not limited to, stadium, tennis courts, golf courses, athletic fields, swimming pools and trails. Structures under 5,000 square feet that are incidental to the use and house related retail, office, showers, concessions, etc are included in this definition.

10.1.15 P

PARCEL - A contiguous area of land under single ownership, not divided by a public highway, or a stream greater than ten (10) square miles of drainage area as defined in accordance with current Vermont statues, or which has been identified on a plat approved by the Town pursuant to these regulations and duly recorded in the Braintree land records. The "original parcel" is the parcel as it existed on the date of adoption of this Bylaw. Parcel is synonymous with lot.

PARKING FACILITY – Off-street parking space used for the temporary location of one or more licensed motor vehicles which allows at least one space ten feet wide by twenty feet long for each vehicle, not including access driveways, and having direct access to a road or right-of-way. Handicapped parking spaces shall be at least twelve feet wide by twenty feet long.

PLAT - A map of a parcel of land subject to subdivision review and approval under these Regulations showing boundaries of lots, roads, driveways, rights-of-way, and other features, drawn to scale and suitable for recording in the Braintree Land Records.

PLANNED RESIDENTIAL DEVELOPMENT (PRD) - A single development of dwellings where the overall density for the entire development complies with the district regulations, and where setbacks along the development's perimeter are met, but internal lot size, setbacks and densities may be waived by the DRB in order to concentrate development and preserve other portions of the lot in open space. Such open space may be communally owned, but need not be.

PRINCIPAL BUILDING - A dominant building or portion thereof, the use of which is fundamental and superior to any other use of the land or the lot.

PRINCIPAL USE - The use dominant on a lot, such use being fundamental and superior to any other use of the land or the lot.

PRIVATE ROAD – Any privately owned easement or right-of-way which affords the principal means of access to properties.

PUBLIC ROAD - A highway, street or other way owned by the Town of Braintree or the Vermont Agency of Transportation, which exists for vehicular travel. The word "road" shall mean the entire right-of-way.

PUBLIC AND PRIVATE UTILITY - A business establishment engaged in supplying on a regular basis the public or private persons with a common commodity such as telephone, electric, sewage, or water service.

PRIVATE ROAD - Any privately owned road, right-of-way.

10.1.16 Q

QUALIFYING PRODUCT – See statutory definition, 24 VSA § 4412 (11)(A)(iv).

10.1.17 R

RBES – Residential Building Energy Standards for the State of Vermont.

RECOVERY RESIDENCE – See 24 V.S.A § 4412 (G).

RECREATION, PRIVATE OUTDOOR - Includes a golf course, trap, skeet and archery range, swimming pool, skating rink, riding stable, park, beach, tennis court, recreation stadium, or skiing facilities operated either as a private club or for profit.

RECREATION, PUBLIC OUTDOOR - Includes a publicly owned and operated playground, play field, park, open space and swimming pool.

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

RELIGIOUS INSTITUTION - Includes a church, temple, parish house, convent, seminary or retreat house.

RESTAURANT - A restaurant serving food that may also include a bar.

RETAIL STORE - Includes enclosed restaurant, cafe, shop and store for the sale of retail goods and services, and shall exclude any drive-up service, free-standing retail stand, gasoline service and motor vehicle service, new and used car sales and service, trailer and mobile home sales and service.

RIVER CORRIDORS – The land area adjacent to a river that is required to accommodate the dimensions, slope, planform, and buffer of the naturally stable channel and that is necessary for the natural maintenance or natural restoration of a dynamic equilibrium condition and for minimization of fluvial erosion hazards, as delineated by the Agency of Natural Resources in accordance with river corridor protection procedures.

ROAD - Public way for vehicular traffic, which affords the principal means of access to properties. The word "road" shall mean the entire right-of-way.

ROAD, PRIVATE - See Private Road.

ROAD, PUBLIC - See Public Road.

10.1.18 S

SCHOOL - Includes parochial, private, public, and nursery school, day care, college, university, and accessory uses.

SEASONAL SHELTER - Cabin, trailer, shelter or other accommodation suitable for seasonal or temporary living purposes.

SETBACK, REAR - Distance between the rear lot line and the nearest portion of the building.

SETBACK, SIDE - Distance between the principal building or accessory building and a side lot line.

SIGNS - Any outdoor structure, display, device or representation which is designed or used to advertise or call attention to any business, activity, place, person or thing. Display does not include the inventory of a business or storage of materials such as lumber, bricks, fencing and similar type materials. Representation shall include color, pictures, shapes and similar things associated with the building or business.

SIGN, AREA CALCULATION - The entire area within a circle, triangle, rectangle or parallelogram, enclosing the extreme limits of writing, representation, emblem or any figure of similar character, together with any frame, panel or other material or color forming a part of the display to differentiate such a sign from the background against which it is placed; excluding the necessary supports or uprights on which a sign is placed. Where a sign does not include a physical frame or panel, an imaginary frame or panel will be used. Where a sign has two or more faces or panels, the area of all faces or panels shall be included in determining the total area of the sign, except where the two faces or panels are placed back to back.

SIGN, BUILDING - A sign fastened to or applied on the outdoor wall or window of a building or structure in such a fashion that the wall becomes the supporting structure for, or forms the background surface of, the sign and which does not project more than twelve (12) inches from such building or structure. This term does not include roof signs.

SIGN, FREESTANDING - A sign having its own supporting structure, independent of any building.

SIGN, PROJECTING - A sign that is wholly or partially dependent upon a building for support and which projects more than twelve (12) inches from such a building.

SIGN, TEMPORARY - A sign which is being used to advertise any of the following: the sale of property, vacancy, auction, candidate, public or civic event; or activities of a similar nature. Such a sign shall be removed within five (5) days of fulfilling its function.

SPECIAL FLOOD HAZARD AREA - is 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 municipal office or online from the FEMA Map Service Center: msc.fema.gov. Base flood elevations have not been determined in Zone A where the flood risk has been mapped by approximate methods. Base flood elevations are shown at selected intervals on maps of Special Flood Hazard Areas that are determined by detailed methods. Please note, where floodways have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps.

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

STORAGE - Box trailers, storage containers, and other trailers used for storage which are parked in compliance with setbacks and are temporary (not exceeding six consecutive months).

STRUCTURE - An assembly of materials for occupancy or use, including, but not limited to, a building, mobile home or trailer, billboard, sign, wall or fence, except a wall or fence on an operating farm. For the purposes of this Bylaw, however, a fence, doghouse, playhouse, playset, treehouse, or mailbox shall not be considered a structure.

In the Flood Hazard Overlay district a structure also means a walled and roofed building, as well as a manufactured home, and any related built systems, including gas or liquid storage tanks.

SUBDIVISION - The dividing of a parcel of land by sale, gift, mortgage, foreclosure, court-ordered partition, or filing of a subdivision map of plat plan in the Town Land

Records, where the act of division results in two (2) or more lots with the bounds of the original parcel in existence on the effective date of this amendment. A subdivision shall be deemed to have occurred on the conveyance of the third lot or the filing of a plat in the Town Land Records, whichever shall occur first.

SUBDIVISION PLAN - A map representing a tract of land, showing the boundaries and location of individual lots, roads, and other improvements as required by these Regulations.

SUBDIVISION APPROVAL - Actions taken by the DRB approving a Final Subdivision Plan application following a duly noticed public hearing; such written decision addressing the standards for planning and design as set forth in Chapter 7 of this Bylaw.

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

SUBSTANTIAL IMPROVEMENT - means any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of this Bylaw, the cost of which, over three years, or over 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".

10.1.19 T

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

10.1.20 V

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

10.1.21 W

"WALKOUT-ON-GRADE BASEMENT" - means a basement whose floor is at ground level on at least one side of the house, usually with a door on that side. This is considered the lowest floor as defined by these regulations.

WETLANDS - Wetlands are defined as those areas that are inundated by surface or ground water with a frequency sufficient to support plants and animals that depend on saturated or seasonally saturated soil conditions for growth and reproduction. These areas are commonly known as ponds, bogs, fens, marshes, wet meadows, shrub swamps, and wooded swamps. In the Vermont landscape, wetlands often occur in association with lakes, ponds, rivers, and streams, but they may also be isolated from any obvious connection to surface water. For the purpose of this Bylaw, wetlands shall be identified by the Vermont Significant Wetlands Inventory (VSWI) by the Agency of Fish and Wildlife unless special identification has been undertaken by a trained professional.

WILDLIFE REFUGE - A non-commercial use of land that provides protection and shelter for native wildlife.

WIRELESS 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 communications signals for commercial industrial, municipal, county or state purposes. The construction or improvement of a road, trail, building, or structure incidental to a telecommunications facility. This definition does not include satellite receivers less than 2 feet diameter or amateur ham operator towers or antennae less than 40 feet in height.