Brandon Land Use Ordinance

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PROPOSED AMENDMENT FOR PLANNING COMMISSION PUBLIC HEARING

Approved for Public Hearing on November 4, 2024 Planning Commission Meeting

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Article I. Title, Purpose and General Provisions

Section 101. Title

This Ordinance shall be known and cited as the Brandon Land Use Ordinance ("BLUO") and shall take effect in accordance with the voting and other procedures contained in Section 4442 of 24 V.S.A. ("the Act").

Section 102. Purpose

(a) The intent and purpose of the BLUO is to encourage the appropriate development of all lands in the Town of Brandon, including the placement, spacing, and size of structures and other factors specified in the BLUO, in a manner that will promote the public health, safety, and general welfare of the community, and conform with the most recently adopted Municipal Plan, as authorized by 24 V.S.A. §4411.

(b) The intent is not to affect the proper use of land or structures legally in existence at the time of its adoption or amendment, except that any modification in the current use or development which would require a zoning permit must comply with the provisions of the BLUO in effect at the time of the modification.

Section 103. Interpretation

In their interpretation and application, the provisions of the BLUO shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare. It is not the intent of this Ordinance to repeal, annul or in any way to impair any regulations or permits previously adopted or issued, however where the BLUO impose a greater restriction upon use of a structure or land than are required by another other statute, ordinance, rule, regulation permit, easement, or agreement, the provisions of the BLUO shall control. However, if administering the BLUO would impair the ability for the Town of Brandon to comply with any other state or federal statute or regulation, the BLUO shall be administered to not in any way impair the ability to comply with any other state or federal statute or regulation.

Section 104. Amendments

Any provision of the BLUO, including the Zoning District Map, may be amended in accordance with the procedures mandated in 24 V.S.A. 4441 and 4442.

Section 105. Severability

If any part of the BLUO is ruled unconstitutional or otherwise invalid, such as by a superseding Vermont statute, such decisions shall not affect the validity of the remaining portions of the BLUO, which provisions shall remain in full force and effect.

Section 106. Zoning Permits

(a) No land shall be divided into two or more parcels, used, or occupied and no structures shall be erected, altered, used, moved, extended, or occupied within the Town of Brandon without first obtaining a zoning permit issued pursuant to the provisions of the BLUO, including the exemptions listed in Subsection (b) and (c), and as provided for in 24 V.S.A. § 4449. Any use or structure that is not expressly allowed, permitted, or exempt from these regulations shall be deemed prohibited.

(b) The BLUO may only regulate the uses outlined in 24 V.S.A. §4413(a)(1) 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 these regulations do not have the effect of interfering with the intended functional use.

(c) A zoning permit or application is NOT required for minor land development projects and uses listed below. Projects not listed but of similar minor impact may receive an exemption by consent of the Development Review Board. All structures and landscaping, including the exemptions listed in this section, must comply with all other relevant regulations in the BLUO.

(1) Exterior construction or renovation that does not enlarge the size (footprint or volume) of the original structure.

(2) Detached accessory structures no larger than 120 square feet in area and eight feet in height, and at least 5 feet from all lot lines.

(3) Required agricultural practices (RAP) or acceptable management practices for silviculture (AMP), including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets or the Commissioner of Forests, Parks and Recreation, respectively, under Subsections 1021(f) and 1259(f) of Title 10 and Section 4810 of Title 6; however,

(A) A person shall notify the Zoning Administrator of the intent to build a farm structure in writing and shall abide by the setbacks approved by the Secretary of Agriculture, Food and Markets. However, dwellings for human habitation on such lots shall require a zoning permit.

(4) Meadowland, forest, open land, or any change of use from one to the other.

(5) Nonstructural residential accessory uses, such as home gardens

(6) Interior renovations or alterations to structures that do not result in a larger exterior footprint or are not undertaken with the intention of a change of use or change in intensity of use.

(7) Fences less than 73 inches in height.

(8) Public utility power generating plants and transmission facilities regulated under 30 V.S.A §248.

(9) Wind turbines with blades less than 20 feet in diameter and rooftop solar power collectors less than ten feet high, either of which are mounted on complying structures.

(10) Recreational vehicles used as noncommercial housing for house guests, provided that such housing is not connected to any onsite sewer and/or water and used less than 21 total days per year. A recreational vehicle connected to onsite sewer and/or water or not connected but used for 21 total days per year or more shall require a zoning permit as a dwelling.

(11) Lawn or garage sales held on the same site for six or fewer days in any calendar year, not more than two days in a row.

(12) Wheelchair ramps (open or roofed) and associated landings (not exceeding 36 square feet) located five or more feet from all lot lines.

(13) A temporary structure on a lot for less than six months. A temporary structure shall require a permit if it is or is intended to be on a lot for six months or more.

(d) Any verbal representation made or any opinion rendered in the absence of a complete application by the Zoning Administrator shall have no standing in any enforcement action. However, at the written request of an applicant, and after the payment of the appropriate application fee, the Zoning Administrator may issue an official letter of confirmation that the proposed development does not require a zoning permit, based on a review of the representations made by the applicant in a complete zoning application. Copies of any official decision rendered by the Zoning Administrator shall be filed in the land use records and delivered upon issuance to all interested persons, as defined in 24 V.S.A. §4465(b), to preserve their right to appeal the decision.

Section 107. Setback & Height Determination

(a) In determining the adequacy of setbacks from a structure to a property line or right of way, the line shall extend from the closest portion of the structure (excluding jut outs and overhangs), except for the Central Business District, which should include jut outs and overhangs, to the property line or the edge of the right of way, whichever is closest.
(b) In determining the adequacy of height of a structure, the height shall be the vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat and mansard roofs, and to the average height between eaves and ridge for other types of roofs.

Section 108. More than One Primary Structure or Use on a Lot

No more than one primary use or primary structure may be allowed on a lot.

Section 109. Reduction in Lot Size

(a) No lot or parcel shall be reduced in size:

(1) If the resulting lot would thereby be reduced in area to less than the minimum lot area required in Article III for the zoning district in which the lot is located, or

(2) If any existing structures located on the lot were no longer able to meet required setbacks.

(b) The minimum lot size requirements of Article III and this Section shall not apply when a portion of a lot is taken for a public purpose, such as an easement or fee-title for the maintenance or expansion of public facilities and utilities.

Section 110. Boundary Line Adjustments

(a) Boundary line adjustments between adjoining lots shall not be considered subdivisions and may be permitted by the Zoning Administrator when all of the following conditions apply:

(1) The land is not located within a subdivision previously approved by the Development Review Board

(2) A survey map by a Vermont licensed surveyor showing the locations of existing structures and the new and old boundaries has been submitted on mylar to the Brandon Town Clerk for recording

(3) All resulting parcels shall meet the minimum lot size requirements in the BLUO, or, if either of the original parcels is a nonconforming lot, the degree of nonconformity shall not be increased

(4) All existing structures within the affected parcels will meet all current setback requirements after the transaction has been completed

(5) The total number of parcels resulting from the transaction will not be greater than the number of parcels that existed prior to the proposed boundary line adjustment.

(b) If the proposed lot line adjustment is located within an approved subdivision, the applicable provisions in Article VII shall apply.

Section 111. Compliance with other Permit Requirements.

No person shall initiate land development or construction under a Zoning Permit issued hereunder until (1) all required wastewater and potable water supply permits have been issued by the Vermont Department of Environmental Conservation under 10 V.S.A. Chapter 64; (2) all required permits under 10 V.S.A. Chapter 151 (Act 250); and (3) access approval and/or permit from VT Agency of Transportation have been issued and any preconstruction conditions set forth in such permits have been met.

Article II. Primary Use Categories and Descriptions

Section 201. Agricultural Uses

This category includes all agricultural and animal husbandry uses, except those defined in the Required Agricultural Practices regulations promulgated by the Vermont Secretary of Agriculture. This does not include uses that support or may be supported by agricultural endeavors, such as farm machinery sales and services and feed stores.

Section 202. Natural Resource Extraction Uses

This category includes all solid and liquid resource extraction uses that are not appropriately classified as High Impact Uses.

Section 203. High Impact Uses

(a) This category includes all uses (except as outlined in Section 203(a)(1)) that by their very nature are likely to have an undue adverse impact on the environment, the service infrastructure of the Town, the ability of neighbors to reasonably enjoy their properties, the integrity or aesthetics of any zoning districts.

(1) In the case where an office or commercial use meets the description of Commercial II Use and High Impact Use, the development shall be classified as a Commercial II use.

(b) High impact uses shall include, but are not limited to asphalt or concrete mixing plants; slaughterhouses; race tracks; salvage yards (as defined in 24 V.S.A. § 2241); sand or gravel extraction/processing; landfills; rail and motor terminals; natural resource pipelines; helipad; incinerator or combustor; outdoor sport shooting ranges (as defined in 10 V.S.A. § 5227); all manufacturing/industrial/commercial operations that cannot be appropriately classified as ‘Light Industry or Light Manufacturing Uses’, ‘Commercial I Uses’, or ‘Commercial II Uses’.

Section 204. Utility, Civic and Institutional Uses

(a) This category includes (A) all emergency services, municipal and utility facilities (other than power-generating plants and transmission facilities regulated under 30 V.S.A. §248) and; (B) all uses that are supportive of the residential community that provide space for recreation, hobbies, meetings, education, worship, and cultural activities and may require large parking facilities.

(b) This category shall include, but is not limited to churches/religious institutions; private and public meeting rooms; schools; libraries; museums; fire and police stations; post offices; schools; medical clinics; child care facility serving more than six full-time and four part-time children (more than 10 children); utilities; youth, social assistance, welfare, and charitable services; municipal recreation building; and concert halls.

Section 205. Commercial I Uses

(a) Commercial I uses includes all commercial uses that because of their size, activity level, intensity, or the nature of the business or its operations are not likely to have any undue adverse impact on the environment, the road or utility infrastructure of the Town, the ability of neighbors to reasonably enjoy their properties, the integrity or aesthetics of any zoning districts.

(1) Commercial I uses shall not have more than 15,000 square feet devoted to sales, service, storage, and required parking.

(b) A Commercial I use includes professional offices and short-term accommodation services (like hotels, motels, and short-term rentals) that meet the description to be classified as a Commercial I use. Commercial uses do not include industrial or manufacturing uses.

Section 206. Commercial II Uses

(a) Commercial II uses include all commercial uses that because of their size, activity level, intensity, or the nature of the business or its operations could have an undue adverse impact on the environment, the road and utility infrastructure of the Town, the ability of neighbors to reasonably enjoy their properties, the integrity or aesthetics of any zoning districts.

(1) Commercial II uses shall include any office or commercial uses that require more than 15,000 square feet for sales, service, storage, and required parking.

(b) A Commercial II use includes professional offices and short-term accommodation services (like hotels, motels, and short-term rentals) that meet the description to be classified as a Commercial II use. Commercial uses do not include industrial or manufacturing uses.

Section 207. Light Manufacturing/Industrial Uses

(a) This category includes all manufacturing and industrial uses that do not require more than 50,000 square feet for operations, service, storage, and required parking; and that the building's size, activity level or intensity, and the finished product, raw materials, machinery used, and number of employees is not likely to have an undue adverse impact on the environment, the service infrastructure of the Town, the ability of neighbors to reasonably enjoy their properties, the integrity or **aesthetics** of any zoning districts.

(b) Light manufacturing uses may include up to 5,000 square feet for factory showrooms.

(c) All manufacturing and industrial uses that cannot be appropriately classified as Light Manufacturing/Industrial Uses shall be classified as High Impact Uses.

Section 208. Open Space Uses

This category includes all low impact uses that may require large amounts of land and typically are used primarily for formal or informal recreation. Structures are permitted but only as accessory uses to the primary open space use.

Section 209. Residential I Uses

(A) This category includes all 1-or 2-unit dwelling units used for permanent human habitation or an Accessory Dwelling Unit.

(B) A Residential care home (as defined by 33 V.S.A. § 7102) operating under state licensing or registration serving not more than eight persons shall be considered a Residential I use unless it has more than 10,000 square feet of total livable space.

Section 210. Residential II Uses

This category includes all 3-4 unit dwellings used for permanent human habitation.

Section 211. Residential III Uses

This category includes all 5+ unit dwellings used for permanent human habitation; any residential care home that has more than 10,000 square feet of total livable space or any congregate residences that are not residential care homes.

Section 211. Mobile Home Parks

This category includes any parcel of land under single or common ownership or control which contains, or is designed, laid out, or adapted to accommodate two or more mobile homes. This definition shall not apply to the display of mobile homes for sale only.

Article III. Zoning District Regulations

Section 300. Establishment of Zoning Districts

(a) For the purposes of the BLUO, the Town of Brandon is divided into the following base zoning districts: Central Business, Mixed Use, Village, Neighborhood, and Rural. These districts are described in this Article and delineated on the official Zoning Map maintained in the Brandon Town Office.

(b) For the purposes of the BLUO, the Town of Brandon establishes the following overlay districts: Aquifer Protection, Flood Hazard, and River Corridor. These impose additional requirements on certain uses within one or more underlying base zoning districts.

(1) The overlay districts address special siting, use, and compatibility issues that require use and development regulations in addition to those found in the base zoning districts. Where overlay districts impose greater standards than those required by the base zoning district, the more restrictive standard shall apply. Sections 307 and Article VIII describe each overlay district and provide information on where to view official map boundaries and related regulations.

(c) Dimensional Standards Exemptions: See Sections 313-316 for exemptions to the maximum building height, density-related metrics, minimum lot size, and impervious surfaces.

Section 301. Central Business District

(a) The Central Business District serves as the commercial center of the Town by providing a wide variety of small shops and commercial uses within walking distance of each other. The boundaries of the Central Business District are located on the official Zoning Map posted in the Brandon Town Offices.

(b) Uses Not Permitted in the Central Business District: Agricultural Uses, Natural Resource Extraction Uses, Mobile Home Parks and High Impact Uses.

(c) Uses Requiring a Conditional Use Permit in the Central Business District: Utility, Institutional, and Civic Uses; Light Manufacturing/Industrial Uses; Commercial II Uses; and Residential III Uses.

(d) Dimensional Standards for Structures and Lots in the Central Business District:

(1) Maximum Building Height: 36 feet.

(2) Minimum Lot Size for Each Primary Structure on public sewer: 1,000 square feet. Primary structures are not allowed unless connected to the public sewer system.

(3) Maximum Front Setback in Central Business District: 20 feet
(4) Maximum Number of Allowable Dwelling Units per Structure shall not exceed the rounded-up result obtained by dividing the total number of square feet devoted to dwelling units and associated common areas by 800.

(e) Dwelling units in the Central Business District
(1) are allowed as permitted uses on all non-street-level floors;
(2) are allowed as conditional uses at the street level provided that no more than 50% of the floor area at street level is used for residential purposes and that storefronts are maintained.

(f) Off street Parking is required in the Central Business District only for dwelling units. (*See Section 616.)*

Section 302. Mixed Use District

(a) Mixed Use Districts are designated for concentrated mixed development. Uses that require a large amount of space or those that could compromise the viability of allowed development are either prohibited or subject to the conditional use process. The boundaries of Mixed Use Districts are located on the official Zoning Map posted in the Brandon Town Offices.

(b) Uses Not Permitted in Mixed Use Districts: High Impact Uses.

(c) Uses Requiring a Conditional Use Permit in Mixed Use Districts: Agricultural Uses, Natural Resource Extraction Uses, Light Manufacturing/Industry Uses, Commercial II Uses, and Mobile Home Parks.

(d) Dimensional Standards for Structures and Lots in the Mixed Use Districts:
(1) Maximum Building Height: 36 feet.
(2) Maximum Impervious Lot Coverage by Building and: 40%
(3) Minimum Lot Size for Each Primary Structure in Mixed Use Districts
(a) public sewer system: one-fifth acre;
(b) on private wastewater disposal: two acres.
(4) Minimum Number of Acres Per Dwelling Unit in Mixed Use Districts: one-fifth acre
(5) Minimum Setbacks for Primary Structure from Town or State Right of Way and Other Lot Lines:
(a) if Speed Limit < 30 mph:
- Front Setback: 15 feet
- Side Setback: 15 feet
- Rear Setback: 20 feet

(b) if Speed Limit 30 to 40 mph:
- Front Setback: 30 feet
- Side Setback: 20 feet
- Rear Setback: 20 feet

(c) if Speed Limit is >40 mph:
- Front Setback: 60 feet
- Side Setback: 20 feet
- Rear Setback: 20 feet

(6) Minimum Setbacks for Primary Structure from Private Right of Way or Private Road, or any Driveway/Parking Lot from Other Lot Line: 5 Feet

Section 303. Village District

(a) Village District are neighborhoods that are within half a mile of any part of the Central Business District (with access via the existing sidewalk network) that are designated for higher-density, primarily residential uses, but allow compatible uses that contribute to such neighborhoods' viability. This area has access to the Central Business District via the existing sidewalk network. Uses that require a large amount of space or those that could compromise the viability of allowed development are either prohibited or subject to the conditional use process. The boundaries of the Village Districts are located on the Official Zoning Map located in the Brandon Town Office.

(b) Uses not Permitted in Village District: High-Impact Uses; Commercial II Uses; Natural Resource Extraction Uses; Mobile Home Parks; and Light Manufacturing/Industrial Uses.

(c) New construction of primary structures in Village District must be connected to the public water and sewer system.

(d) Uses Requiring a Conditional Use Permit in Village District: Utility, Institutional, and Civic Uses; Agricultural Uses; and Residential III Uses

(e) Dimensional Standards for Structures and Lots in the Village District:

(1) Maximum Building Height: 36 feet.
(2) Maximum Impervious Lot Coverage by Building and Paving: 50%
(3) Minimum Lot Size for Each Primary Structure: one-eighth acre
(4) Minimum Number of Acres Per Dwelling Unit: one-eighth acre
(5) Setbacks for Primary Structure from Town or State Right of Way and Other Lot Lines

(a) if Speed Limit ≤ 30 mph:

- Front Setback: Minimum 12 feet or Avg* & Maximum 40 feet.

(Avg* = The average setback is calculated by using the frontage setback of the two buildings adjacent on both street-facing sides to the property in question. Where (a) adjacent structures do not exist; or (b) only one or no abutting structure exists, and therefore no setback average can be calculated, or (c) where the average is greater than 12 feet, the 12-foot minimum applies. An applicant must express they are pursuing this option in submitting the permit application.)

- Side Setback: Minimum 15 feet
- Rear Setback: Minimum 20 feet

(b) if Speed Limit is >30 mph:

- Front Setback: Minimum 20 feet
- Side Setback: Minimum 15 feet
- Rear Setback: Minimum 20 feet

(6) Minimum Setbacks for Primary Structure from Private Right of Way or Private Road, or any Driveway/Parking Lot from Other Lot Line in Village District: 5 Feet

Section 304. Neighborhood District

(a) Neighborhood District are those set aside primarily for lower-to-medium density residential uses and uses that are compatible with and contribute to the viability of such neighborhoods. The boundaries of Neighborhood District are located on the Official Zoning Map posted in the Brandon Town Offices.

(b) Uses Not Permitted in Neighborhood District: High Impact Uses, Light Manufacturing Uses, Natural Resource Extraction, and Commercial II Uses.

(c) Primary structures are only permitted by the Zoning Administrator in the Neighborhood District if connected to public sewer system. A primary structure not connected to the public sewer system may be permitted as a Conditional Use by the Development Review Board, in accordance with the BLUO.

(c) Uses Requiring a Conditional Use Permit in Neighborhood District: Agricultural Uses; Utility, Institutional, and Civic Uses; Commercial I Uses; Mobile Home Park Uses; Residential III Uses.

(d) Dimensional Standards for Structures and Lots in the Neighborhood District:

(1) Maximum Building Height: 36 feet.
(2) Maximum Impervious Lot Coverage by Building and Paving: 40%
(3) Minimum Lot Size for Each Primary Structure: one-fifth acre
(4) Minimum Number of Acres Per Dwelling Unit:
  (a) connected to public sewer system: one-fifth acre
  (b) on private wastewater disposal: two acres
(5) Minimum Setbacks for Primary Structure from Town or State Right of Way and Other Lot Lines in Neighborhood Districts
  (a) if Speed Limit ≤ 30 mph:
    - Front Setback: 20 feet or Avg*
    (Avg* = The average setback is calculated by using the frontage setback of the two buildings adjacent on both street-facing sides to the property in question. Where (a) adjacent structures do not exist; or (b) only one or no abutting structure exists, and therefore no setback average can be calculated, or (c) where the average is greater than 20 feet, the 20-foot minimum applies. An applicant must express they are pursuing this option in submitting the permit application.)
    - Side Setback: 15 feet
    - Rear Setback: 20 feet
  (b) if Speed Limit is >30 mph: 20 feet for front, side, and rear setbacks
(6) Minimum Setbacks for Primary Structure from Private Right of Way or Private Road, or any Driveway/Parking Lot from Other Lot Line in Mixed Use Districts: 5 Feet

Section 305. Rural District

(a) Rural Districts includes those lands that have been determined to be unsuitable for extensive development because of their ecological or topographical characteristics, the unavailability or inadequacy of public infrastructure, or reduced growth planning considerations. The boundaries of Rural Districts are located on the official Zoning Map posted in the Brandon Town Offices.

(b) Uses Requiring a Conditional Use Permit in Rural Districts: Natural Resource Extraction Uses, Utility, Institutional, Civic Uses, Commercial I, Mobile Home Parks, Commercial II Uses, High Impact

Uses (prohibited if in Aquifer Protection Overlay District), Light Manufacturing/Industrial Uses, Residential II Uses; Residential III Uses.

(c) Dimensional Standards for Structures and Lots in Rural Districts:

(1) Maximum Building Height: 36 Feet.
(2) Maximum Impervious Lot Coverage by building and paving: 30%
(3) Minimum Lot Size for Each Primary Structure in Rural Development Districts: two acres
(4) Minimum Number of Acres Per Dwelling Unit in Rural Districts: two acres.
(4) Minimum Setback from Town or State Right of Way and Other Lot Lines in Rural Districts:
 (a) 30 Feet if Speed Limit < 30 mph;
 (b) 60 Feet if Speed Limit 30 to 40 mph;
 (c) 100 Feet if Speed Limit is >40mph
(5) Minimum Setback of Primary Structure from Private Right of Way or Private Road: 15 feet
(6) Minimum Setback of Driveway/Parking Lot from Other Lot Lines: 5 feet

Section 306. Permitted, Conditional, and Prohibited Uses by Zoning District

	Central Business	**Mixed Use**	**Village**	**Neighborhood**	**Rural**
Agricultural Uses	Prohibited	Conditional	Conditional	Conditional	Permitted
Natural Resource Extraction Uses	Prohibited	Conditional	Prohibited	Prohibited	Conditional
High Impact Uses	Prohibited	Prohibited	Prohibited	Prohibited	Conditional (See Section 307(d))
Utility, Institutional, and Civic Uses	Conditional	Permitted	Conditional	Conditional	Conditional
Commercial I Uses	Permitted	Permitted	Permitted	Conditional	Conditional
Commercial II Uses	Conditional	Conditional	Prohibited	Prohibited	Conditional
Light Manufacturing / Industrial Uses	Conditional	Conditional	Prohibited	Prohibited	Conditional
Open Space Uses	Permitted	Permitted	Permitted	Permitted	Permitted
Residential I Uses	Permitted	Permitted	Permitted	Permitted	Permitted
Residential II Uses	Permitted	Permitted	Permitted	Permitted	Conditional
Residential III Uses	Conditional	Conditional	Conditional	Conditional	Conditional
Mobile Home Park Uses	Prohibited	Conditional	Prohibited	Conditional	Conditional

Section 307. Aquifer Protection Overlay District

(a) The Aquifer Protection Overlay District encompasses those lands that provide the water sources and storage for wells maintained by municipal fire districts. The purpose of this overlay district is to protect the Town's water source. For zoning purposes, the boundaries of the Aquifer Protection Overlay District are located on the official Zoning District Map posted in the Brandon Town Offices.

(b) See Section 622 for additional performance criteria unique to Aquifer Protection Overlay District.

(c) Maximum Impervious Lot Coverage by Building and Paving in Aquifer Protection Overlay Districts: 25%

(d) All High-Impact Uses are prohibited in the Aquifer Protection Overlay District.

Section 308. River Corridor and Flood and Fluvial Hazard Overlay District

See Article VIII for all information on Flood Hazard Area and River Corridor Overlay Districts.

Section 309. Location of Districts on Zoning Map

The base and overlay districts listed in Sections 301-305, and Sections 307 & 308 of this Article, are located and bounded as shown on the Official Zoning Map which is hereby adopted as part of the BLUO. The official copy of the Zoning \Map is posted in the Brandon Town Offices. Fluvial Erosion Hazard Areas and Special Flood Hazard Areas (hereafter called "hazard areas"), and River Corridors, are not located on the official Zoning District Map, but can be viewed online at the Vermont Natural Resource Atlas; The official copies of these maps are posted in the Brandon Town Offices.

Section 310. Interpretation of Zoning District Boundaries

(a) Where uncertainty exists as to the boundaries of the districts shown on the official Zoning Map, the following rules shall apply:

(1) Boundaries indicated as approximately following the center lines of roads, streams, and transportation and utility rights of way shall be construed to follow such center lines.
(2) Boundaries indicated as approximately following lot lines in existence when the official map was drawn shall be construed to follow such lot lines.
(3) Boundaries indicated as following shorelines shall be construed to follow the natural mean water level of those shorelines.
(4) Boundaries indicated as following the Town of Brandon's municipal limits shall be construed as following the Town of Brandon's municipal limits.
(5) Boundaries indicated as parallel to or extensions of features in Subsections (1) through (3) above shall be so construed.
(6) When the Zoning Administrator cannot definitely determine the location of a district boundary, he shall make a decision based on the preponderance of evidence available and inform the applicant of their right to appeal said decision to the Development Review Board.

Section 311. Lots in More than One Zoning District

Where a boundary line between districts divides a lot or parcel of land, the regulations of the less restrictive district shall be applicable to that part of the lot in the more restrictive district which lies within thirty-five feet of the district boundary.

Section 312. Lots Located in Brandon and an Adjacent Town

When a lot is situated part in the Town of Brandon and part in an adjacent town, the regulations in the BLUO shall be applied only to that portion of the lot that lies in the Town of Brandon.

Section 313. Maximum Number of Dwelling Units on Any Parcel for Short-Term Accommodations

The maximum number of dwelling units on a parcel shall be increased by 50% for inns, hotels, motels, and other establishments offering short-term accommodations to transient guests, except that this shall not apply to any such establishment operated as a home occupation.

Section 314. Structures Exempt from Height Restrictions on Any Parcel

(a) The following structures are exempt from the height restrictions in Article III: silos, barns, and other accessory farm structures; wind turbines with blades less than twenty feet in diameter mounted on complying structures; solar rooftop collectors less than ten feet high; and attached residential radio and television antennas which do not extend more than twenty feet above the height of the roof.

(b) Unattached noncommercial radio, weather, and television towers are also exempt from the height limitations as long as:

(1) The distance from the base of the tower to the nearest lot line shall be no less than the height of the tower plus fifteen feet; and
(2) Appropriate safeguards have been incorporated into the design of the project to prevent the tower from becoming a public safety hazard; and
(3) The tower is adequately secured to minimize the danger of toppling.

(c) Permit procedures and criteria for Wireless Communication Facilities shall be governed by the provisions of Article X of the BLUO.

Section 315. Affordable Housing Density Bonus

(a) Affordable housing development (as define in 24 V.S.A. §4303), including mixed-use development, in any area served by public water and sewer may exceed the Minimum Number of Acres Per Dwelling Unit and Minimum Lot Size in that district by an additional 40 percent (rounded up to the nearest whole unit), which shall include exceeding maximum height limitations by one floor, provided that the structure complies with the Vermont Fire and Building Safety Code.

(b) Where computing density results in a non-whole number, round up to the nearest whole number.

Section 316. Impervious Surface Exemption

(a) Any use shall be exempt from the Impervious Lot Coverage by Building and Paving standard if that use is required to obtain a Stormwater General Permit 3-9050, and already has obtained such permit from the Vermont Department of Environmental Conservation, or any State of Vermont agency, so long as the applicant provides documentation of General Permit 3-9050 to the Zoning Administrator prior to the Zoning Administrator issuing a permit.

Article IV. Accessory Structures and Uses

Section 400. Applicability

This section applies to any subordinate use of a building or other structure, except signs, or use of land that is conducted on the same lot as the principal use to which it is related and is incidental to, and customarily found in connection with the principal use or structure. Where a principal use or structure is permitted in a zoning district, such use shall include accessory structures and uses provided that they meet all of the applicable standards and requirements in the BLUO.

Section 401. Zoning Permit Required

Except as limited in Section 104(b), a zoning permit is required for all accessory structures and uses. However, they may use a low-documentation, expedited review process if the applicant certifies that the structure or use will meet all applicable performance standards. A temporary structure that is temporarily on a lot for six or more months must require a zoning permit as an Accessory Structure.

Section 402. Required Setbacks for Accessory Structures and Fences

(a) Except for rural mailboxes, fences, and utility poles, no accessory structures may be built within any Town or State right of way.

(b) Boundary line fences may be installed on the boundary line with the documented approval of both landowners, which agreement shall include the design and facing of the fence as well as a statement of which party or parties is/are responsible for its maintenance.

(c) Accessory structures that (1) are no more than eight feet in height from ground to peak of the roof and (2) whose sides facing neighboring lot lines do not exceed 80 square feet in area may be constructed up to five feet from a side or rear lot line.

(d) Except as provided in Subsections (a) through (c) above, all other accessory structures must meet the setbacks for the district in which they are located.

Section 403. Accessory Structure Height Restrictions

(a) Except for the structures exempted from height restrictions listed in Section 325, the height of accessory structures may not exceed 36 feet.

(b) Fences less than 6' 1" in height do not require a zoning permit. Fences 6' 1" but less than 8' in height

require a zoning permit issued by the Zoning Administrator. Fences 8' or greater in height are not allowed unless approved by the Development Review Board as a conditional use.

Section 404. Accessory Structures and Impervious Surface Limitations

The impervious surface area of an accessory structure, when added to all other impervious surfaces on the lot, shall not exceed the maximum impervious coverage of the lot permitted in Article III.

Section 405. Home Occupations

(a) It is the intention of this Section to regulate the operation of home occupations so that the average neighbor, under normal circumstances, will not be aware of their existence other than for a permitted sign and any required off-street parking spaces. Nothing within the BLUO, nor in its interpretation, may infringe upon the right of any resident to use the inside of a minor portion of a dwelling or appurtenant accessory structure for an occupation or business which is customary in residential areas and does not change the character thereof.

(b) Any home occupation may be conducted by the residents of the dwelling unit within, or appurtenant to, any dwelling unit in any zoning district, provided that all of the following criteria are met:

> (1) The proposed use must be customarily conducted in residential areas.
>
> (2) The proposed use shall not have an undue adverse effect upon the character of the residential area in which the dwelling is located.
>
> (3) The proposed use must be clearly incidental to the use of the building as a residence and not change its residential character.
>
> (4) The total square footage devoted to the home occupation shall be less than 50% of the total floor space of the primary residential structure, not including attics and cellars.
>
> (5) The use must be conducted by a resident of the principal dwelling who occupies the residence at the time of the Home Occupation.
>
> (6) In-home bed and breakfast businesses may be considered home occupations only if they meet the criteria in this Section and if they offer accommodations on a weekly or less basis.

(c) A Home Occupation’s approval expires if the resident relocates.

Section 406. Private Swimming Pools

A private in ground or aboveground swimming pool shall be fenced or otherwise protected to prohibit unauthorized or accidental entry. It shall meet all applicable setback requirements. A swimming pool requires a BLUO permit.

Section 407. Satellite Dishes

Free-standing home satellite dishes of greater than three feet in diameter may be located only to the rear of the main structure on a lot with screening designed to minimize visual disruption to neighbors, except that such a dish may be located elsewhere on the property only if the applicant provides documented proof from a certified installer that there is no feasible rear lot location available.

Section 408. Accessory Dwelling Units

One accessory dwelling unit, as defined in 24 V.S.A. § 4303, is permitted for each owner-occupied single-family dwelling in any zoning district. This accessory dwelling unit shall not count towards the density calculation in any district.

Section 409. Family Child Care Home

(a) A family child care home (as defined in 33 V.S.A. § 3511), where the owner or operator is registered by the state for child care, and serves no more than six full-time children and four part-time children (10 or less children), shall be a permitted use in any districts.

(b) A family child care facility serving more than six full-time and four part-time children shall be treated like any other Utility, Civic, and Institutional Use.

Article V. Nonconformities and Existing Small Lots

Section 501. Nonconforming Uses

(a) Any nonconforming use lawfully existing on the effective date of the BLUO or subsequent amendment to it may continue to exist so long as it remains in its in its current location and configuration and otherwise lawful.

(b) A nonconforming use may be changed to a conforming use pursuant to all applicable provisions of the BLUO. When a nonconforming use has been made conforming, it shall not be made nonconforming again, unless a subsequent amendment results in nonconforming status.

(c) Any change or modification to a nonconforming use, other than to full conformity under the BLUO may be granted only by the Development Review Board as a conditional use upon the applicant demonstrating that the proposed nonconforming use will be no more intensive in nature and no less compatible with the character of the area than the existing nonconforming use.

(d) A nonconforming use which has been discontinued and replaced by a conforming use shall not be resumed or re-established.

(e) A nonconforming use which has been discontinued and has not been replaced by a conforming use may be resumed within three (3) years of the date of discontinuance. A nonconforming use that has been discontinued for more than three years shall not be resumed or re- established.

Section 502. Noncomplying Structures

(a) Any noncomplying structure, group of structures, or parts thereof, lawfully existing on the effective date of the BLUO or subsequent amendment to it may continue to exist in the district unchanged in the district in which the structure is located.

(b) Any change or modification to a nonconforming structure, other than to full conformity under the BLUO may be granted only by the Development Review Board as a conditional use upon the applicant demonstrating that the proposed modification does not further infringe in the required boundary line setback and will not be deemed an increase in the degree of noncompliance.

(c) Nothing in this section shall be deemed to prevent the normal maintenance, repair, or structural alteration of a nonconforming structure provided that such action does not increase the degree of noncompliance.

Section 503. Existing Small Lots

(a) Any undeveloped lot that was legally subdivided and in individual, separate, and non-affiliated ownership from surrounding properties in existence or before the enactment of the BLUO (March 21, 1983), that is nonconforming with respect to minimum lot size, may be developed for the purposes permitted within the district in which it is located, even though the lot does not comply with the minimum lot size requirements of the district. However, development of an existing small lot may not be developed if either of the following applies:

- i. the lot is less than one-eighth (1/8) acre in area; or
- ii. the lot has a width or depth dimension of less than 40 feet.

(b) The Zoning Administrator, after determining that a lot qualifies as a legally existing small lot, shall proceed to consider the application without regard to the minimum lot size requirements in the district in which it's located.

(c) If a legally existing small lot subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot. However, a nonconforming lot shall not be deemed merged and may be separately conveyed if ALL the following apply:

- i. The lots are conveyed in their preexisting, nonconforming configuration.
- ii. On the effective date of the BLUO, each lot was developed with a water supply and wastewater disposal system.
- iii. At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner.
- iv. The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 V.S.A. chapter 64.

Section 504. Nonconforming Lots

(a) The boundaries of a nonconforming lot may be altered only in a manner that decreases, or does not increase, its degree of nonconformity.

(b) Existing nonconforming lots that meet the minimum lot size but in other respects do not conform to the minimum requirements of this BLUO (such as adequate frontage or depth), may be developed provided that all of the provisions of the BLUO, except those that create the nonconformity, are complied with, and the development doesn't further the extent of the nonconformity of the lot.

Article VI. Performance and Development Standards

Section 600. Standards

(a) No zoning permit will be issued for any land use or development in the Town of Brandon unless the land use or development complies with the standards listed below, in accordance with 24 V.S.A. § 4414(5).

(b) When any of the performance and development standards listed below are also subject to state regulation because of the nature or extent of the project, evidence of state approval shall be deemed compliance with individual performance standards to the extent that state regulations equal or exceed the requirements contained herein.

Section 601. Wastewater

(a) Wastewater must be disposed of in a safe, non-polluting manner, as evidenced either by:

(1) connection or approval to connect to town sewer, including evidence that any easements necessary to run connecting lines across land not owned by the applicant have been granted, or

(2) if the current volume of wastewater to be treated will not be increased, connection to a preexisting, properly functioning private wastewater disposal facility, or

(3) if the current volume of wastewater is expected to increase, certification by a designer licensed by the State of Vermont that a preexisting, properly functioning private wastewater disposal facility is adequate to properly handle the total wastewater expected to be generated by the proposed use, or

(4) if a new private wastewater disposal facility is to be constructed,

(A) A designer licensed by the State of Vermont shall provide an affidavit that states that the site is capable of supporting an onsite wastewater system that will meet the objectives and performance standards of Environmental Protection Rules, Chapter 1: Wastewater System and Potable Water Supply Rules and all other applicable state and local regulations or ordinances, and

(B) After the system is installed, a designer licensed by the State of Vermont shall provide written certification that the system was installed and that the system was tested, functions, and installed in accordance with Subsection (A) above.

(b) If a developer certifies that the proposed use or structure will not require the availability of plumbing or wastewater treatment facilities, the Zoning Administrator may issue an official letter that absolves the developer from engineering or constructing an onsite wastewater treatment facility for as long as the proposed use or structure does not require the availability of plumbing or wastewater treatment facilities.

(1) When such an official letter is issued, the following language shall be incorporated into any permit issued and recorded in the land records of the Town of Brandon: *"In order to comply with the Brandon Land Use Ordinance, the Grantee herein shall not construct or erect a structure or building on the above parcel of land, the useful occupancy of which will require the installation of plumbing and sewage treatment facilities without first complying with Section 601 of the Brandon Land Use Ordinance. The Grantee, by acceptance of this deed, acknowledges that the above lot may not qualify for approval of development under relevant sewage disposal ordinances adopted by the Town of Brandon and state standards and that an application to develop the lot may be denied."*

Section 602. Landlocked Parcels

(a) No land development shall be permitted on a lot that does not have:

(1) Frontage either on a public road or public waters, or

(2) Access through a permanent easement or right-of-way at least 20 feet in width.

(b) Compliance with this section will require applying for a permit with the Zoning Administrator and demonstrating that the stated criteria are met.

Section 603. Water

(a) There must be an adequate water supply to service the use intended, as evidenced by:

(1) Connection to the public water supply, or

(2) Approval from Brandon Fire District #1 for such a connection, or

(3) Documentation by a designer or engineer licensed by the State of Vermont that provision has been made for a private water source sufficient to service the proposed use, and that the proposed private water supply will be consistent with state regulations.

Section 604. Traffic

(a) Expected additional traffic flow generated by the proposed use to and from the site must not be beyond the capacity of nearby and feeder roads that will be impacted by the use and shall not cause an undue adverse impact on the character of the area.

(b) Evidence of compliance with this criterion shall consist of certification by the Town Manager or his designee that such roads are either presently adequate or scheduled to be upgraded prior to the initiation of the use to handle the amount and weights of the additional vehicles expected to be involved in the use.

(1) In making this determination, the Town Manager or his designee may require that a licensed traffic engineer submit a formal traffic study, paid for by the applicant, that details the expected traffic effects of the proposal.

(2) Prior to issuing the certification in Subsection (b) above, the Town Manager or his designee shall consider the following criteria: current traffic volume and types of vehicles using the roads in question, current traffic patterns and intersections in the vicinity of the proposed use, the

surface of the roads, the time of the year, proximity of existing buildings to the edge of the roads, the safety of pedestrians, and the location and fragility of sewer and water lines beside and under the roads.

(c) If the Zoning Administrator, Town Manager or Town Manager's designee determines that the posted weight limit on any road to be used by the applicant would be routinely exceeded because of the use or that the size or shape of the vehicles proposed to be used raises safety concerns for other vehicles using the roads or poses a danger to pedestrians or property located along the proposed travel routes, the Zoning Administrator shall refer the application to the Development Review Board where it shall be considered as a conditional use and the Development Review Board, after a duly warned public hearing, shall order that a permit be issued only if it finds that the proposal complies with all relevant provisions of the BLUO, as well as the following special conditions, as applicable:

(1) A State Overweight Permit has been issued for the use;
(2) A reasonable plan to minimize safety threats and damage to the roadway and nearby structures is in place; and
(3) The applicant is adequately bonded for damage.

In making its decision, the Development Review Board may impose such conditions that it deems necessary to protect the Town from undue road or public infrastructure damage, undue vehicular or pedestrian safety threats, or damage to structures located along the proposed routes.

Section 605. Driveways

(a) The design of all driveways must conform with the criteria contained in the Standards for Residential and Commercial Drives issued by the Vermont Department of Highways (Document B-71). All new driveways shall be so constructed that automobiles are able to turn around on the property and enter local roads in a forward direction.

(b) If two or more parcels share a common driveway, no use will be permitted that substantially restricts the access rights of any of the persons owning or inhabiting any of the properties sharing the driveway. Shared driveways are not subject to setback requirements along the common property line(s).

(c) Roadway serving three or more parcels will be considered a private road and must conform to A-76 State Standards for Development Roads. This requirement shall not apply to logging roads, private roads accessing wood lots and seasonal dwellings, and roadways serving parcels existing as of the date of this revision.

Section 606. Historic and Natural Area Protection

(a) No development or use may destroy, significantly alter, fragment or cause an undue adverse impact on historic and natural areas.
    (1) For the purposes of the BLUO, historic and natural areas shall include prime and statewide agricultural soils and other open farm fields; critical wildlife habitat; steep slopes greater than fifteen percent (15%); historic and archaeological sites identified in the Town Plan; unique or fragile natural resources; scenic features or prominent knolls and hills that contribute to the scenic value and character of the area; and all historic structures designated by state and federal agencies.

Section 607. Slopes and Erosion

(a) The purpose of this Section is to prevent soil loss and protect natural and manmade critical features such as neighboring properties, water courses, storm drainage systems, wetlands and natural areas from unstable slope/ soil conditions, erosion and sedimentation resulting from construction earthwork. The following general practices shall apply:

(1) In no case shall excavation be undertaken adjacent to a property line which results or causes unstable slope conditions to extend onto the abutting property.

(2) In no case shall a down-gradient property, water course, storm drainage system, wetland, or natural area be subjected to erosion and sedimentation as a result of earthwork.

(3) The extent of earthwork, erosion potential, and protection of critical features shall be considered in site selection and design. The site/grading plan should fit the existing topography, considering existing drainage courses, soil, groundwater, and bedrock conditions. Site selection should consider erosion control measures early in the selection process.

(b) Construction on slopes shall take into account the natural angle of repose of the soil encountered, and groundwater seep conditions. At the discretion of the Zoning Administrator or Development Review Board authorized to grant the permit, the following may require analysis and certified plans prepared by a professional engineer at the expense of the applicant:

(1) Proposed slopes, either excavation or embankment, with a vertical elevation difference greater than ten feet, a slope steeper than 1 vertical to 3 horizontal, and either the toe of slope or top of slope closer than 10 feet to any property boundary line. Additionally, any modifications to the topography of the site which may impact adjoining properties must be accompanied by engineering controls to stabilize such changes.

(2) Where groundwater conditions indicate seeps will be likely in a cut slope which will require attention to stabilize the slope.

(3) Proposed structure loading (buildings, parking areas, roads) on a fill slope adjacent to a property line. Proposed cut slopes adjacent to a property line which may affect an existing building foundation.

(c) The Vermont Handbook for Erosion Prevention and Sediment Control on Construction Sites shall be used as a reference to determine the necessary erosion control measures for a proposed project.

Section 608. Noise

No land use or development shall emit any level of noise that is excessive or exceeds 70 decibels during daylight hours or 60 decibels at other times of the day at the property line. No noise regardless of decibel level shall cause an adverse impact on the character of the surrounding area.

Section 609. Vibration

(a) No blasting or other activities causing substantial vibration shall be permitted that exceed particle velocities of 0.5 in/sec at or below 40 Hz, nor 2.0 in/sec for frequencies above 40 HZ measured at the property line of another landowner.

(b) If significant drilling, hammering, cutting, or blasting is proposed within 100 feet of any underground tank used to store petroleum products or other hazardous materials, which drilling,

hammering, cutting, or blasting introduces the likelihood that the tank may be damaged or that seepage may occur from the tank, the Zoning Administrator may order that the tank be tested by a qualified tester at the expense of the applicant.

(c) No blasting or other activities causing substantial vibration shall occur after 5pm or before 7am.

Section 610. Smoke

(a) No emission shall be permitted at any point, from any chimney or otherwise, of visible gray smoke or any air contaminant for more than a period or periods aggregating six minutes in any hour which has an opacity greater than 20%, as determined by a trained observer.

(1) These provisions shall also apply to visible smoke of any color having an apparently equivalent opacity except for wood or coal burning for residential heating use only.

Section 611. Fly Ash, Dust, Fumes, Vapors, Gasses, and Other Forms of Air Pollution

No emission, as defined by the Vermont Department of Environmental Conservation, Air Pollution Control Division, shall be permitted which can cause any damage to health, to animals, vegetation, or other forms of property, or which can cause excessive soiling, at any point on the property of others, and in no event may any emission from any chimney, or otherwise, of any solid or liquid particles in concentrations exceed those outlined in the National Ambient Air Quality Standards (NAAQS) established by the U.S. Environmental Protection Agency (EPA). For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to stack temperature of 500 degrees Fahrenheit and fifty percent (50%) excess air.

Section 612. Odors

No emission of objectionable odor or noxious gases readily detectable at any point beyond the property line of a premises shall be discharged, caused, allowed, or permitted.

Section 613. Fire, Explosive, or Safety Hazard

(a) No fire, explosive, or safety hazard shall be permitted which significantly endangers other property owners or which results in a significantly increased burden on municipal facilities.

(b) All activities involving, and all storage of, inflammable and explosive materials shall proceed with, and be provided with, adequate safety devices against the hazards of fire and explosion, and such adequate fire-fighting and fire suppression equipment and devices as are standard in the industry.

(c) The storage of flammable liquids in tanks above ground shall be placed in leak-proof containment areas with the capacity to contain the entire contents of the tank. The storage of flammable liquids in above ground storage tanks with unit capacity of greater than 1100 gallons shall be prohibited unless the applicant provides evidence that such installations will be in full compliance with State regulations.

Section 614. Outdoor Lighting

Except for public traffic signals:

(a) Any operation or activity producing glare shall be conducted so that direct or indirect light from the source shall not cause illumination more than 0.5 foot-candles when measured at adjacent property boundaries.

(b) Lights that flash, pulse, rotate, move, or simulate motion are not permitted.

(c) All luminaires of 1800 or more lumens shall be full cutoff as installed. For exterior luminaires under 1800 the bulb must be frosted glass or installed behind a translucent cover, except floodlights which must be aimed no higher than 45 degrees below horizontal. This can be accomplished by the use of full-cutoff fixture design, shielding, visors, louvers, or other devices.

(d) No line of sight to a bulb is permitted 5 feet or more beyond a residential or public right-of-way property line by an observer viewing from a position that is level with or higher than the ground below the fixture. Compliance is achieved with fixture shielding, directional control designed into the fixture, fixture location, fixture height, fixture aim, or a combination of these factors.

(e) Security lighting should employ motion sensor activation and must not exceed 1.0 foot-candle illumination levels on the ground.

(f) Lighting and externally lit signs at places of business or public venues, except for security, shall be turned off at closing. Security lighting remaining lit after closing should be confined to that needed for basic security and not serve any other lighting purposes. The lights of vacant parking lots shall not remain lighted except for illuminating entryways by the fixtures closest to building entrances.

(g) No light, lumen, glare or reflection shall constitute a nuisance to other property owners or tenants, impair the vision of motor vehicle operators, or otherwise be detrimental to public health, safety, and welfare.

Section 615. Hazardous Materials

(a) All generation, handling, storage, and disposal of hazardous or toxic materials (as defined in 10 V.S.A. 1922 [6]) or hazardous wastes (as defined in 10 V.S.A. 6602 [4]) shall be in compliance, except as provided below, with regulations issued by the Vermont Agency of Natural Resources and the US Environmental Protection Agency, whichever is the most stringent.

(b) Commercial or industrial establishments, including home occupations, storing hazardous or toxic materials in quantities totaling more than thirty gallons liquid volume or twenty-five pounds dry weight shall comply with the following:

(1) Wastes containing hazardous materials shall be held on the premises in product-tight containers for removal by a licensed carrier for disposal in accordance with 10 V.S.A., Chapter 159.

(2) Surfaces underlying areas where hazardous or toxic materials are stored aboveground, or used, transferred, or delivered to such tanks, shall be impermeable to the materials being stored.

The storage area shall be enclosed by a permanent dike of impermeable construction, at a minimum capable of containing 110% of the total volume of the containers. The containment system shall be isolated and there shall be no connection with any sewer, septic tank, dry well, or the surrounding soil.
(3) Underground storage of hazardous materials is prohibited entirely within the Aquifer Protection Overlay District.
(4) Underground storage of hazardous materials may be permitted in other areas within the town, provided that:
(A) the tank is of all fiberglass construction, cathodically protected steel or other non-corrosive materials, or such other tank construction as state law shall approve;
(B) all steel tanks older than ten years shall be tested biannually for leakage by the owner and replaced if necessary;
(C) any tank out of service for more than twelve months shall have the contained materials removed and the tank filled with sand;
(D) a secondary containment liner or similar protection is used under the tanks and all pipes leading to and from the tanks to contain any leakage from the tanks or piping.
(5) Roadways used for the purpose of transporting hazardous waste materials shall be limited to the routes specified in the application. Routes shall not run through the Aquifer Protection Overlay District and shall be capable of repelling the quick absorption of accidental spills while in transit.

(c) The storage, handling, and disposal of nuclear and radioactive waste shall comply with Title 10, Chapter 157, Vermont Statutes Annotated and 10 CFR 20.

(d) Onsite fuel oil storage in excess of 1100 gallons shall be allowed only if a containment system that effectively controls spillage and/or leakage as required in paragraphs 615 b 1-5 above is installed and maintained.

Section 616. Off-Street Parking

(a) Off-street parking is required, except for non-residential uses in the Central Business District. Applicants must provide adequate off-street parking spaces for the use to accommodate the maximum number of vehicles that might reasonably be expected to make use of the premises at any given time, except for Residential I or II uses which must adhere to the below subsection.
(1) Residential Minimum Parking Spaces Required
(A) In Areas Served by Public Sewer: 1 parking space per dwelling unit
(B) In All Other Areas: 1.5 parking spaces per dwelling unit

(b) Off-street parking is not permitted on Town or State rights of way.

(c) Off-street parking within one-quarter mile is required in the Central Business District for approved dwelling units.

Section 617. Loading and Unloading

(a) For all new commercial construction or extensions (except those located in the Central Business District), adequate space for loading and unloading must be provided within the boundaries of the lot.

At no time shall any part of a truck or van be allowed to extend onto the traveled portion of a public road while the truck or van is being loaded or unloaded. To the greatest extent possible, loading/unloading areas shall be situated in the back of the building.

(b) When any non-residential use abuts a residential use, loading/unloading spaces shall be no closer than 30 feet to the property line and shall be suitably screened and landscaped.

Section 618. Safety Standards Applicable to Structures over 400 Cubic Feet in Volume

(a) All such structures, including mobile homes, shall be so built and maintained that children cannot gain access to the space beneath the structure. If the structure is elevated above the ground, suitable siding shall cover all open spaces under the structure.

(b) Such structures shall be installed on footers or piers or on a reinforced concrete pad or other permanent foundation so as to provide anchorage and stabilization.

(c) If the structure is a mobile home, it shall be installed on level ground in accordance with the manufacturer's set-up instructions or the generally accepted set-up procedures utilized by local professional mobile home movers and set-up firms.

Section 619. Farm Animals

Unless kept or raised as a Required Agricultural Practice as defined by the Secretary of Agriculture, Food and Markets, no farm animals (including, but not limited to, horses, cows, hogs, fowl) may be kept or large-scale animal raising undertaken in any district unless the use is permitted in said district and the following criteria are met:

(1) No farm animals shall be kept within such place or manner as to be offensive or cause a nuisance to persons residing in the vicinity, and the buildings and yards shall be kept deodorized by the application of dry earth or some other effective absorbent or disinfectant. All farm animals so kept within the town limits shall be confined in an enclosure, and shall not be permitted to run at large. Violation of the provisions of this section shall constitute violation of the BLUO. (Should not be called a public health nuisance as the Town has not adopted such an ordinance)

(2) Manure piles shall be located so as to minimize the possibility of pollution to wells and surface waters. In the absence of an otherwise acceptable plan, manure piles shall be located no closer than 200 feet from surface waters. If a manure pile is located upslope from a well, the isolation distance shall be at least 200 feet; if it is located downslope from a well, the isolation distance shall be at least 100 feet.

(3) If the Brandon Animal Control Ordinance applies to the Farm Animal, the farm animal shall adhere to the ordinance. The Town of Brandon has adopted a separate Animal Control Ordinance to regulate the keeping of animals so as to protect the public health and safety of the town and the enjoyment of its residents. The ordinance can be found on townofbrandon.gov.

Section 620. Pesticide, Herbicide, and Fertilizer Uses

(a) Use of pesticides, herbicides, and fertilizers shall be prohibited within 400 feet of any well maintained by any municipal fire district.

(b) All pesticide, herbicide, and fertilizer use and manure storage shall conform to applicable State and Federal regulations.

Section 621. Forest Harvesting

All forest-harvesting shall be conducted in full compliance with the acceptable management practices established by the Forestry Division of the Vermont Department of Forests, Parks, and Recreation, specifically the standards incorporated in Part 1 of the Use Value Appraisal Program Manual, "Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont," and the standards incorporated in the Heavy Cutting Rules.

Section 622. Public Service Uses in the Aquifer Protection Overlay District

No salt storage, maintenance garages, large-scale hazardous materials storage, or landfills shall be allowed in the Aquifer Protection Overlay District.

Section 623. Water Backup and Runoff

(a) The development or use must not cause an excessive increase in quantity or rate or re-channeling of water runoff onto neighboring properties. The natural water course shall be maintained with appropriate grading, culverts, or other technology.

(b) Storm water discharge shall be in compliance with the Vermont Stormwater and Management Rule.

Section 624. Outdoor Display of Retail Products

(a) Except for farm stands and businesses affected by the Vendor and Sidewalk ordinances adopted by the Town of Brandon, outdoor display of retail products for commercial purposes shall not be permitted within the required setback from a right of way or public roadway.

(b) Nothing in this Section shall be construed to prevent farmers' markets, church bazaars, and other similar events from displaying merchandise outdoors in designated non-sidewalk areas.

Section 625. Riverbank Protection

(a) No development within 100 feet from the mean high-water mark of named rivers and streams shall be permitted by the Zoning Administrator, except for uses and structures that do not have the potential to threaten the stability of the stream bank, such as fencing, picnic tables, cooking grills, tents, recreational vehicles, and camping trailers, provided that such recreational equipment remain on the land less than six months of the year.

(b) Development that does not meet the test in Subsection (a) above will be reviewed under the standards for Fluvial Erosion Hazard Areas in Section 800.

Section 626. Excavation, Blasting, or Drilling in the Aquifer Protection Overlay District

Any activity that would cause the clay layer that protects the public water supply to be breached — such as excavation or blasting — shall not be permitted. However, drilled wells (whether for private or commercial use) located within the Aquifer Protection Overlay District may penetrate the clay layer protecting the public water supply only if an impermeable bond is maintained between the well casing and the surrounding clay layer.

Section 627. Outdoor Storage of Junk & Salvage Yards

(a) Storage of junk, or junk vehicles (as defined in 24 V.S.A. § 2241(6)) must not be visible from the traveled way of a highway, or visible from abutting land owners' property, nor within 50 feet of any property line.

(b) Any structure whose primary design or use was intended for a purpose other than storage, i.e. mobile homes, buses, campers, trailers, shall not be considered/allowed as an accessory structure/storage building.

(c) Storage of three or more junk vehicles, or storage and operation of a business processing junk/scrap becomes a salvage yards (as defined in 24 V.S.A. § 2241); and requires the following:

(1) Local conditional use permit as well as State certification.
(2) Fencing of sufficient height and strength to deny access to the public shall entirely surround the actual space used for the actual storage of junk.
(3) Screening shall block the view into the salvage yard from the first-floor level of residences within 500 feet of the boundary of the salvage yard and from all public streets and roads.
(4) No storage of junk is permitted within 50 feet of any property line.

Article VII. Subdivision Regulations

Section 700. Policy and Purpose

It is the policy of the Town of Brandon to regulate all subdivision of land, and subsequent development of the subdivided plat, in accordance with these regulations, to ensure the orderly planned, efficient, and economical development of the Town in conformity with State Statute and the Brandon Town Plan. No subdivision of land shall be made and no land in any proposed subdivision shall be sold, transferred, or leased until a final plat prepared in accordance with these regulations has been approved by the final review authority and filed with the Town Clerk.

Section 701. Subdivision Application Procedures

(a) Applicability

(1) Whenever any subdivision of land is proposed, the landowner or authorized agent (applicant) shall apply for and secure approval of such proposed subdivision in accordance with the procedures set forth in these regulations prior to:

(A) commencing any construction, land development or land clearing (excluding

accepted silvicultural or agricultural activities); or
(B) the sale or lease of any subdivided portion of a property (excluding parcels leased for agricultural purposes, where all resulting parcels are at least 5 acres in size, and no new roads are created for uses other than accepted agricultural practices); or
(C) the filing of a subdivision plat with the Town Clerk.

(b) Authority to Review and Make Decisions on Proposed Subdivisions

(1) The Zoning Administrator shall have the authority to make a decision on a subdivision proposal, unless:
(i) The parcel has been divided into four or more lots (including the effect of the current proposal) in the last five years, or
(ii) The developer proposes to utilize cluster development in the proposed subdivision, or
(iii) The proposed subdivision is part of a larger plan that would ultimately result in the creation of four or more lots over a five-year period, or
(iv) The developer intends, as part of the project, to dedicate open space or common land as provided in Section 711(i).

(2) Subdivision applications that may be handled by the Zoning Administrator shall not be subject to the provisions of Sections 702, 704, 705, 706, 707, 711, 712 and Subsections (a) and (b) of Section 709 of this Article.

(3) If a subdivision application fails any of the tests in Subsection (1) above, only the Development Review Board shall have the authority to review and make a decision on the proposal.

(4) Appeals of any action by the Zoning Administrator shall be made to the Development Review Board. Appeals of any action by the Development Review Board shall be made to the Environmental Court.

(c) Waiver Authority

(1) The Development Review Board may waive or vary, subject to appropriate conditions, any or all requirements of Section 705 if it determines that such requirements are not needed to protect the public health, safety, and general welfare, or that the requirements are inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision.

(2) When the developer certifies that a portion of the proposed subdivision will forever remain undeveloped, the Development Review Board shall waive the requirements of this Article for the lot(s) so designated, provided that all parcels to be created are larger than ten acres in area or such parcels are reserved as open space or common land in accordance with Section 711(i).

Section 702. Phased Developments

(a) When a developer has divided a project in phases that will be contingently completed over time, he

may choose to either include all of the phases in his application or only the phase that he intends to develop in the very near future.

(1) If the developer chooses to include all of the phases in his application, he shall present all of the required data for the full project to the Development Review Board.

(2) If the developer chooses to initially apply only for one of the phases, he must present all of the data for that phase as well as a master plan overview that is sufficiently detailed to permit the Development Review Board to assess the adequacy of infrastructure that may be required to service the entire project if and when it is completed. The approval issued by the Development Review Board will apply only to the specific phase for which full data was presented, and any applications for future phases will be required to conform to the regulations in place at the time that subsequent applications may be filed.

Section 703. Pre-Application Meeting

(a) Any person contemplating submitting an application for subdivision in accordance with these regulations is encouraged to meet as often as necessary with the Zoning Administrator prior to preparing an application for the subdivision to receive guidance regarding the application and the review process to discuss the developer's conceptual plans and the standards set forth in Section 711. The pre-application meeting is intended to be an informal, nonbinding, preliminary discussion.

(b) The applicant may present any information that he or she deems appropriate at the pre-application meeting, including site information and/or conceptual subdivision design.

(c) All applicants for subdivision review are encouraged to notify abutting landowners and other potentially interested persons prior to submitting an application to ensure that legitimate concerns of neighbors are addressed early in the subdivision design process.

Section 704. Development Review Board Meeting Schedule

When a subdivision application is before the Development Review Board, every effort, consistent with the availability of information, participants' schedules, and state statute, shall be made to expedite the decision process, including special meetings of the Board.

Section 705. Subdivision Application Contents

Unless waived by the Development Review Board in accordance with Section 701(c), all subdivision applications requiring its approval shall contain the information listed in the Application Information table, a plan or plat map constructed according to the Plan/Plat Mapping Requirements table, and the additional information indicated in the Supporting Information and Documentation table below.

Application Information	Preliminary Plan	Final Plan

Number of copies of application form	7	7
Application fee	Yes	Yes
Name of project, if any	Yes	Yes
Name and address of applicant and landowner	Yes	Yes
Written description of proposed development plans, including number and size of lots; general timing of development	Yes	Yes
Name and address of all adjoining landowners	Yes	Yes
The subdivision history of the original parcel for the last five years	Yes	Yes
Waiver requests, in writing (optional)	Yes	N/A
Statement indicating which, if any, infrastructural improvements the developer expects to ask the Town or the Brandon Fire District to take over upon completion	Yes	Yes
Written request for modification of dimensional requirements or other standards contained in the zoning bylaws, including any modifications that might be necessary to facilitate cluster development.	Yes	Yes

Plan/Plat Mapping Requirements	**Preliminary Plan**	**Final Plan**
Materials	Paper or Mylar	Mylar
Date of document, including all revisions, North Arrow, Legend	Yes	Yes
Preparer Information, Certifications	Yes	Yes
Scale (1 inch = 200 feet or less)	Yes	Yes
Project boundaries and property lines	Drawn or Surveyed	Surveyed
Existing and proposed lot lines, dimensions	Drawn or Surveyed	Surveyed
Adjoining land uses, roads and drainage	Yes	Yes
Zoning district designations and boundaries	Yes	Yes

Location of Fragile Features and Natural and Cultural Resources, as identified in the Brandon Town Plan (including wetlands, floodplains and surface waters; steep slopes, prominent knolls and ridgelines; wildlife habitat and natural areas), as well as historic resources, farm land, and forest resources in area to be developed.	Yes Delineation in Area to be Developed	Yes Delineation in Area to be Developed
Existing and proposed elevations, contour lines in area to be developed	2-foot interval	2-foot interval
Existing and proposed roads, paths, parking areas, associated rights-of-way or easements	Drawn or Surveyed	Surveyed
Utilities, water and wastewater systems and associated rights-of-way or easements	Yes	Yes
Digital data as specified by the Development Review Board	No	Yes
Survey markers	No	Yes
Road profiles; road, intersection and parking area geometry and construction schematics within area to be developed	Yes	Yes
Proposed landscaping and screening	Yes	Yes
Proposed conservation buffer and/or easement areas	Yes	Yes
Notation prepared in accordance with Section 708(c)	No	Yes
Reduced (11" x 17") copies of proposed plan (number of copies)	6	6
Full size copies of the plat and plan	2	2

Supporting Information and Documentation	**Preliminary Plan**	**Final Plan**
Site location map showing proposed subdivision in relation to major roads, drainage ways, and adjoining properties	Yes	Yes
Certification that the project, when completed, will be in full compliance with all relevant provisions of Article VI	No	Yes
Engineering reports (water and wastewater systems)	Yes	Yes
Off-site easements (e.g., for water, wastewater, access)	Draft	Final
Proposed phasing schedule	Draft	Final

Proposed covenants and/or deed restrictions	Draft	Final
Proposed homeowner or tenant association or agreements	Draft	Final
Stormwater and erosion control plan	Draft	Final
Grading plan (showing proposed areas of cut and fill)	Draft	Final
Open space management plan	Draft	Final
Site reclamation plan (for subdivisions involving extraction of earth resources)	Draft	Final
Traffic impact analysis (current and proposed traffic volumes, capacities, levels of service, proposed improvements)	Draft	Final
Statement of conformance with the Town Plan and compliance with applicable local regulations	Draft	Final
Fiscal impact analysis (analysis of fiscal costs and benefits to the town)	Draft	Final
Statement of the impact of the development on municipal and educational services	Draft	Final

Section 706. Preliminary Site Plan Review (Applies to all Subdivisions Requiring Development Review Board Approval)

(a) The applicant shall submit an application and associated fees for a formal Preliminary Plan review to include, unless otherwise waived by the Development Review Board under Section 701(c), the information required for the Preliminary Plan Review as specified in Section 705.

(b) After receipt of the initial documentation for the Preliminary Plan Review, the Development Review Board shall hold one or more public meetings with the developer and/or his representatives to thoroughly familiarize themselves with the proposal under consideration. When the Development Review Board determines that all of the required documentation is complete, it shall, within 30 days, hold a formal public hearing on the Preliminary Plan, warned in accordance with 24 V.S.A. §4464. In addition, at least 15 days before the public hearing, the Town Office shall notify all adjoining landowners by mail of the date, time, place, and purpose of the hearing.

(c) Based on a determination of whether or not the preliminary plan conforms to applicable subdivision design standards under Section 711, or would be in conflict with the Town Plan or other municipal regulations in effect, within 45 days of the date of adjournment of the public hearing, the Development Review Board shall approve, approve with contingencies, or disapprove the preliminary plan and associated plat. The Development Review Board may also require, as a condition of approval, the submission of proposed changes or modifications based on further study. Approval, conditions of approval, or grounds for disapproval shall be set forth in a written notice of decision. The approval of a

preliminary plan and plat shall be effective for a period of one year from the date of written notice of approval, unless otherwise approved or extended by the Development Review Board in the written notice of decision.

(d) At the time that the Development Review Board grants preliminary plan and plat approval it may require the plan and plat to be divided into two or more phases to ensure project conformity with the Town Plan and/or Capital Budget and Program currently in effect. Conditions may be imposed upon the filing of application for final plan and plat approval for each phase as the Development Review Board deems necessary to ensure the orderly development of the plan and plat and to avoid overburdening town facilities and services.

(e) Approval of the preliminary plan and associated plat shall not constitute approval of the final subdivision plan and plat. The applicant may apply to the Development Review Board for final plan approval under Section 707.

Section 707. Final Site Plan Review (Applies to all Subdivisions Requiring DRB Approval)

(a) Within one year from the date of the Preliminary Plan decision, unless otherwise extended by the Development Review Board, the applicant shall submit an application for final subdivision plan and plat approval. If the applicant fails to do so, he shall be required to resubmit a new application for approval, which will be subject to the zoning and subdivision regulations in effect at the time of the resubmittal.

(b) Within 30 days of the date that the Zoning Administrator, in consultation with the Chair of the Development Review Board, determines that a final plan application is complete, the Development Review Board shall hold a public hearing on the final plan and associated plat, warned in accordance with 24 V.S.A. §4464. In accordance with 24 V.S.A. §4463 copies of the hearing notice shall also be mailed, at least 15 days prior to the hearing date, to the clerk of an adjacent municipality in the case of a plat located within 500 feet of a municipal boundary. Further, all adjoining landowners shall be notified by the Town Office of the date, place, time, and purpose of the hearing.

(c) In accordance with 24 V.S.A. §4464, within 45 days of the date of adjournment of the public hearing, the Development Review Board shall approve, approve with conditions, or disapprove the final subdivision plan, based on a determination of whether or not the plan and associated plat conform to subdivision review standards under Section 711, or would /would not be in conflict with the Town Plan and/or other municipal regulations in effect. The Development Review Board shall forward its decision to the Zoning Administrator with instructions to issue or deny the permit for the proposed subdivision consistent with its findings and decision. Failure by the Development Review Board to act within such 45-day period shall be deemed approval. Approval, conditions of approval, or grounds for disapproval and provisions for appeal shall be set forth in a written notice of decision. Copies of the notice of decision shall be sent to the applicant and any other person or body appearing and having been heard at the hearing within the 45-day period.

(d) The approval by the Development Review Board of a final subdivision plan and associated plat shall not be construed to constitute acceptance by the town of any street, easement, utility, park, recreation area, or other open space shown on the final plat. Such acceptance shall occur only by a formal resolution of the Selectboard, in accordance with State Statute. The Development Review Board may impose a time limit for the start and completion of site improvements, such as roads, erosion control

measures, and bridges, that are an integral part of the subdivision approval.

Section 708. Plat Recording Requirements [Applies to All Approved Subdivisions]

(a) In accordance with 24 V.S.A. §4463 (b), within 180 days of the date of receipt of final plan approval, the applicant shall file one copy of the final subdivision plat with the Town for recording. Approved plats not filed and recorded within this 180-day period shall expire. The Zoning Administrator shall have the power to extend the date of filing the plat for an additional 90 days, if final local or state approvals are still pending.

(b) After an approved plat or certification is filed with the Town Clerk, no expiration of that approval or certification shall be applicable.

(c) Prior to recording a plat that shows a new street or highway, the plat must be signed and dated by the Development Review Board Chair or Vice-Chair if the approval was granted by said board, or by the Zoning Administrator if the approval was granted in accordance with Section 701(b)(1). All final plats must include a notation to include the following statement: *The subdivision depicted on this plat was duly approved by the [Brandon Development Review Board or the Brandon Zoning Administrator] in accordance with the Brandon Land Use Ordinance and all other applicable laws and regulations.*

(d) The Development Review Board may, as a condition of final plat approval, require that other notations pertaining to conditions of subdivision approval also be included on the final plat.

Section 709. Compliance with Subdivision Approval

(a) In establishing conditions of subdivision approval, the Development Review Board may provide for a phased schedule of completion of improvements. The Zoning Administrator may rely on any information contained in the zoning permit application regarding the location of parcel boundaries. In the event that there is a discrepancy between the information provided by the applicant and the true facts, the Town does not waive future enforcement authority with the issuance of a zoning permit.

(b) To assist the Zoning Administrator in determining whether public or private improvements have been met, the Development Review Board shall, as a condition of subdivision approval, require the submission of "as-built" drawings, signed and stamped by a surveyor or engineer licensed by the State of Vermont, which shall indicate by dimensions, angles and distances the location of all utilities, structures, roadways, easements, landscaping and other improvements as installed. The same requirement shall also apply to subdivision applications approved by the Zoning Administrator in exercising his authority under Section 710 below. The Zoning Administrator shall rely upon any information submitted as part of the applicant's application for subdivision approval to determine whether the as-built drawings conform to the approved plat and all associated conditions. In the event of any discrepancies between the approved subdivision and the as-built drawings, the Zoning Administrator shall be entitled to initiate enforcement action pursuant to Section 1014 of the BLUO.

(c) When the applicant has indicated that he intends to request that the streets, sewers, or water lines be taken over by the Town or the Fire District, the Development Review Board shall require, as a condition of final subdivision plan approval, that the applicant provide the Zoning Administrator with certification from the project's supervising engineers that construction has been completed in full compliance with

the approved plan and plat. Until such certification has been received, no zoning permits may be issued for any future development within the subdivision. The receipt of such certification shall in no way obligate the Town or the Fire District to take over the completed road, sewer, and/or water line.

(d) The Zoning Administrator may make periodic inspections of the development during construction to ascertain whether the project is in compliance with the approved plan and plat. The Zoning Administrator shall have the right and authority to require an independent review of the project on the Town's behalf, the cost of which is to be borne by the developer.

Section 710. Revisions to an Approved Subdivision Plat by Administrative Procedures

(a) The Zoning Administrator shall have the authority to approve minor modifications to an approved plat if he finds that the modifications requested (1) arise from land characteristics unknown or unanticipated at the time that final approval was granted, (2) that such modifications are otherwise consistent with the objectives of the Development Review Board embedded in the permit, and (3) the modification will not have a substantial impact on either the use or design of the property as approved using the design criteria specific in Section 711 or the performance standards specified in Article VI. When the Zoning Administrator exercises this authority, he shall transmit a copy of his approval and such findings and conclusions as he may have made to the Development Review Board and to all adjoining landowners and a copy of the approved modification shall be posted and distributed as required in Section 1006(a)(7).

(b) If the Zoning Administrator determines that the requested revisions are beyond his authority to approve, no changes, modifications, or other revisions to an approved plat or conditions attached to an approved subdivision plan shall be made unless the proposed revisions are first resubmitted to the Development Review Board and approved by the Development Review Board after public hearing.

(c) In the event that such subdivision plan revisions are recorded without complying with the requirements of this Section, the revisions shall be considered null and void.

Section 711. Design Standards

(a) The subdivision shall be in full compliance with all relevant district specifications for use, setbacks, performance standards, and other criteria.

(b) If a developer intends to cluster the structures within the subdivision, the Development Review Board may approve up to 125% of surveyed the number of dwelling units that could be permitted on the parcel if the land were to be subdivided into lots in strict conformance with Article III of the BLUO. In determining the allowable density of a proposed subdivision, the acreage of any Section 711(i) dedicated land shall be included in the density calculation.

(c) Unless otherwise determined by the Development Review Board, the design of streets and roads, curbs, gutters, and sidewalks shall conform to the standards incorporated in A-76 Standards for Development Roads and B-71 Standards for Residential and Commercial Drives.

(d) Adequate water storage or distribution facilities for fire protection within the subdivision shall be provided in accordance with standards established by the National Fire Protection Association.

(e) Fire hydrants serviced by the public water system or dry hydrants installed in a pond or stream shall be installed by the applicant to meet the following requirements:

(1) Fire hydrants serviced by the public water system must meet the requirements contained in the Environmental Protection Rules, Chapter 21 (Water Supply Rule), Part 8, promulgated by the Vermont Agency of Natural Resources, Department of Environmental Conservation.

(2) Dry hydrants installed in ponds and streams must meet the requirements established by the Brandon Fire Department.

(f) Emergency access for fire, police, ambulance, or other services, and fire protection facilities must meet the fire lane standards established by the National Fire Protection Association. Compliance with Section 711(c) above shall normally be considered as providing adequate access for municipal and emergency vehicles.

(g) All utilities, existing and proposed, throughout the subdivision shall be shown on the final plat, and be located as follows:

(1) While it is desirable that all utility systems, which may include but not be limited to electric, gas, telephone, fiber optics and television cable, shall be located underground throughout the subdivision, they may be installed so that they are consistent with the area in which the development is located and meet the objectives of the type of development being proposed.

(2) The applicant shall coordinate subdivision design with the utility companies to insure adequate and suitable areas for installation, both for the proposed subdivision and anticipated development on lands adjacent to the subdivision.

(3) Utility corridors shall be shared with other utility and/or transportation corridors, and be located to minimize site disturbance, the fragmentation of farmland, and any adverse impacts to natural, cultural or scenic resources and public health.

(4) Applicants may also be subject to the provisions of the Town of Brandon Utility Line Ordinance which can be found on townofbrandon.gov.

(h) Utility easements of sufficient width shall be provided to serve both the proposed subdivision and existing and anticipated development outside the subdivision. Such easements shall be shown on the final plat.

(i) Dedication of Open Space and Common Land

(1) It is the intent of this Subsection to encourage subdivision design that preserves open space areas and common land for parks, recreation and transportation paths, viewshed and historic site protection, and/or to preserve farm and forest land and fragile features.

(2) Provisions should be made for the preservation of open space, unless the Development Review Board determines that the subdivided parcel does not contain features described in Subsection 711(i)(1) which merit protection as open space, or the Development Review Board determines that the applicant has made other provision for the protection of such features

through alternative mitigation measures. The location, size and shape of lands set aside to be preserved for open space shall be approved by the Development Review Board, in accordance with the following criteria:

(A) Designated open space may include the portion of a single lot beyond the portion being developed which is characterized by one or more of the above referenced features and/or may encompass the contiguous boundaries of the above referenced feature located on multiple lots.

(B) The location, shape, size and character of the open space shall be suitable for its context and intended use. In designating open space and/or common land, applicants and the Development Review Board shall consider the recommended protection strategies for various natural and cultural features identified in Subsection 711(i)(1) above in determining the appropriate features to designate as either open space or common land for the relevant zoning district(s).

(C) Provisions should be made to enable open space designated for agriculture and forestry to be used for these purposes. Management plans for farmland, forest, wildlife habitat, shorelines and associated buffers may be required by the Development Review Board as appropriate to ensure their long-term protection and management.

(D) Areas preserved for agricultural and forestry use should be of a size that allows for continued productive use of the land.

(E) Open space land shall be located so as to conform with and extend existing areas sharing similar characteristics or natural features and resources on adjacent parcels.

(F) Where trail corridors have been identified by the Development Review Board, open space should make reasonable provision for the continued use of such corridors as parkland.

(G) Sewage disposal areas and utility and road rights-of-way or easements, access and parking areas shall not be counted as open space areas, except where the applicant can prove, to the satisfaction of the Development Review Board, that they shall in no way disrupt or detract from the values for which the open space is to be protected. Stormwater management practices or facilities that require, incorporate, or establish open space areas may be counted as open space.

(3) The maintenance and protection of shared facilities, such as community wastewater systems, community water supplies, recreation or community facilities, or recreation, including road and trails rights-of-way, may be held under separate ownership from contiguous parcels and shall be subject to the legal requirements set forth below.

(4) The Development Review Board may require that land offered by an applicant as protected open space be dedicated as such either in fee or through a conservation easement approved by the Development Review Board. At a minimum, designated open space shall be indicated with appropriate notation on the final plat. Land held in common shall be subject to deed restrictions stipulating the permitted and restricted uses of such lots, and establishing the person or entity responsible for maintenance and long-term stewardship. All costs associated with administering and maintaining open space and/or common land shall be the responsibility of applicant and subsequent landowners.

(5) The number of lots involved in any subdivision shall be equal to the number of separate parcels that

ultimately result from the subdivision, except that parcels dedicated as open space or common land in accordance with Section 711(i) shall not be included in the total

Section 712. Adoption of Certification by Independent Experts

The Development Review Board may accept the certification of independent professional experts as presumptive that the subdivision as proposed shall meet the criteria of specific sections of Article VI or Section 711 of this Article, provided that the certification relates to matters within their areas of specialization and that the expert has no personal interest in the project. Such experts may include local and state officials or experts retained by the Town or the developer.

Article VIII. Flood Hazard Area and River Corridor Overlay Districts

Section 800. Statutory Authorization and Effect

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

Except as additionally described below, all administrative procedures follow municipal procedures under 24 VSA Chapter 117.

Section 801. Statement of Purpose

It is the purpose of Article VIII to:

(a) Implement the goals, policies, and recommendations in the current municipal plan;

(b) 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;

(c) 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,

(d) 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 Brandon, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

(e) Make the Town of Brandon, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds, as may be available.

Section 802. Other Provisions

Precedence of Bylaw

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

Validity and Severability

(b) If any portion of the flood hazard regulation is held unconstitutional or invalid by a competent court, the remainder of the flood hazard regulation shall not be affected.

Warning of Disclaimer of Liability

(c) The flood hazard regulation does not imply that land outside of the areas covered by the flood hazard regulation will be free from flood or erosion damages. The flood hazard regulation shall not create liability on the part of the Town of Brandon, 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.

Section 803. Abbreviations and Definitions

(a) Abbreviations

The following abbreviations shall be the shortened form of the word or phrase indicated, the definitions of which may also be included in Section III below:

Ac. - acre/acreage
AMP - Appropriate Municipal Panel
ZA - Zoning Administrator
ANR - Vermont Agency of Natural Resources
BFE - Base flood elevation
CFR - Code of Federal Regulations
DRB - Development Review Board
FEMA - Federal Emergency Management Agency
FIRM - Flood Insurance Rate Map
FHA - Flood Hazard Area
FHBM - Flood Hazard Boundary Map
FHO - Flood Hazard Overlay District
Ft. - Feet/foot
LOMA - Letter of Map Amendment
LOMC - Letter of Map Change
LOMR - Letter of Map Revision
NA - Not applicable
NAI - No adverse impact
NFIP - National Flood Insurance Program
RAPs - Required Agricultural Practices
RCO - River Corridor Overlay District
SF - Square feet
VSA - Vermont Statutes Annotated
VT - Vermont
ZBA - Zoning Board of Adjustment

(b) Construction of Language
Except where specifically defined herein, all words used in this Section shall have their common meanings. The word "shall" means the action is mandatory; and "occupied" and "used," in the context of structures and vehicles, shall be considered as though followed by "or intended, arranged, or designed to be occupied or used."

(c) Definitions
"Accessory dwelling" means an efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. See 24 V.S.A. § 4412(1)(E) for more information.
"Accessory structure" means a structure which is: 1) detached from and clearly incidental and subordinate to the principal use or structure on a lot, 2) located on the same lot as the principal structure or use, 3) clearly and customarily related to the principal structure or use, and 4) only used for vehicle parking, storage, or primarily building access. Examples include, garages, garden and tool sheds, and playhouses, but do not include "accessory dwellings."

"Area of special flood hazard" is synonymous in meaning with the term "special flood hazard area" for the purposes of this bylaw.
"Associated transportation and utility networks" means those transportation and utility networks connected to a bridge, culvert, or utility for the purpose of crossing a river or stream and do not include transportation or utility

networks within the river corridor that merely run parallel to a river or stream[1].
"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 one percent chance of equaling or exceeding that level in any given year. On the Flood Insurance Rate Map the elevation is usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or the average depth of the base flood, usually in feet, above the ground surface.
"Basement" means any area of a building having its floor elevation below ground level on all sides, including crawlspaces.
"BFE" see "Base Flood Elevation."
"Channel" means an area that contains continuously or periodic flowing water that is confined by banks and a streambed.
"Compensatory storage" means a volume not previously used for flood storage and which shall be incrementally equal to the theoretical volume of flood water at each elevation, up to and including the base flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Further, with respect to waterways, such compensatory volume shall be provided within the same reach of the river, stream, or creek.
"Common plan of development" means 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.
"Construction trailer" means a vehicle which is: (1) built on a single chassis; (2) 500 square feet or less when measured at the largest horizontal projection; (3) designed to be self-propelled or permanently towable; and (4) designed for use as a temporary office facility used to support management of a construction project, and not as a permanent structure.
"Critical facilities" means facilities that are vital to public health and safety, including police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities.[2]
"Designated center" means a downtown, village center, new town center, growth center, or neighborhood development area designated pursuant to 24 V.S.A. Chapter 76A.
"Development" means any human-made change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials[3].
"Encroachment" means activities or construction including fill, substantial improvements, and other development that may cause an increase in flood levels.
"Equilibrium condition" *means the width, depth, meander pattern, and longitudinal slope of a stream channel that occurs when water flow, sediment, and woody debris are transported by the stream in such a manner that it generally maintains dimensions, pattern, and slope without unnaturally aggrading or degrading the channel bed elevation.*
"Fill" means any placed material that changes the natural grade, increases the elevation, redirects the movement of flood water, or diminishes the flood storage capacity at the site. Temporary storage of material for less than 180 days is not considered fill.

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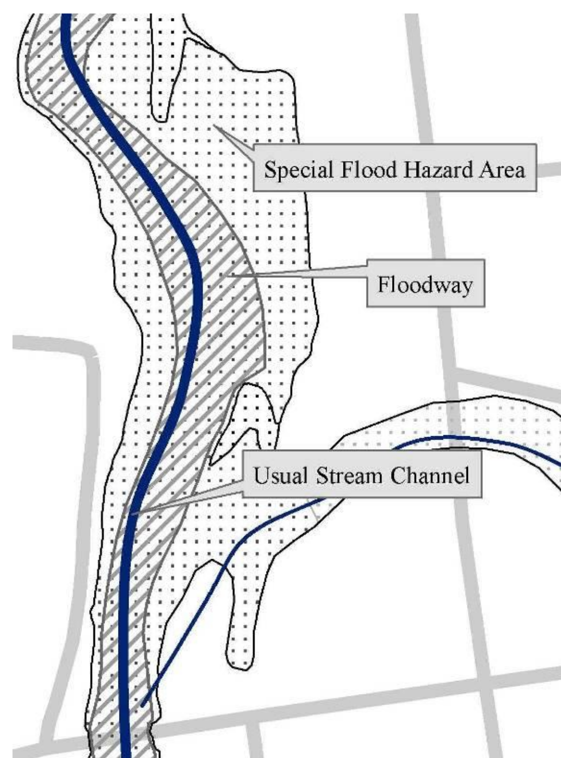
[1] These do not include state transportation networks or power generation and transmission utility networks subject to the Public Utility Commission jurisdiction, as those are exempt from municipal regulation and are regulated under the State Flood Hazard Area & River Corridor Rule; http://dec.vermont.gov/sites/dec/files/documents/wsmd-fha-and-rc-rule-adopted-2014-10-24.pdf

[2] A community may opt to expand the definition to include other structures as essential to the health and welfare of the population and that are especially important during and after a disaster. For example, the type and location of a business may raise its status to a critical facility, such as a grocery store or gas station.

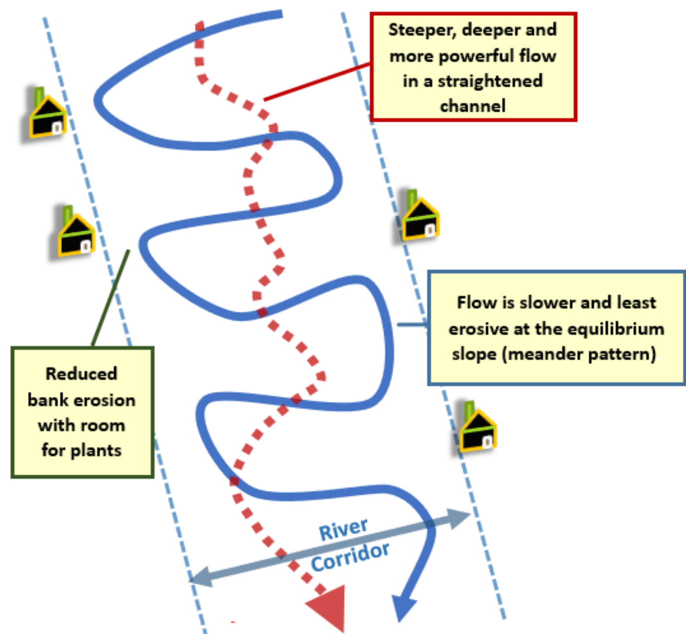
[3] Note this definition is required by the National Flood Insurance Program and differs from "land development" defined in 24 V.S.A. Chapter 117.



"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 fringe" means the portion of the flood hazard area that is outside of the floodway but still inundated by the base flood (the flood having a one percent chance of being equaled or exceeded in any given year).
"Flood hazard" means those hazards related to damage from flood-related inundation or erosion.
"Flood hazard area" shall have the same meaning as "area of special flood hazard" under 44 C.F.R. § 59.1. "Area of special flood hazard" is synonymous with the term "special flood hazard area."
"Flood Insurance Rate Map" (FIRM) 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").
"Floodproofing" 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 flood hazard areas and floodways may be shown on a separate map panels.
"Fluvial erosion" means the erosion or scouring of riverbeds and banks during high flow conditions of a river. Fluvial erosion is most likely to occur within the river corridor.
"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.
"Grading" means the movement or replacement of topsoil or other material originating on the site and within the hazard area. Grading results in minor or no changes in topographic elevations. If new material is brought from outside the hazard area and such new material is not offset with an equal or greater removal of material from the portion of the site within the hazard area, the new material shall be considered "fill" and shall not be considered grading.
"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

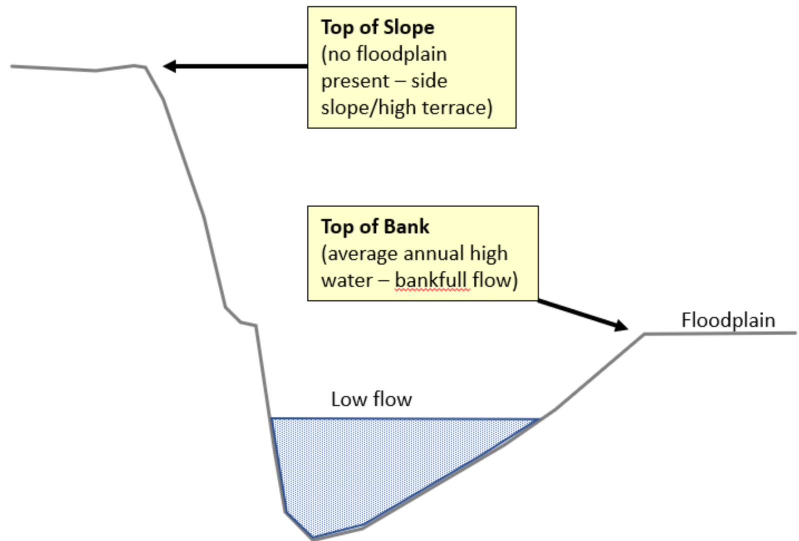
as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as 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.
***"Infill development*"** means construction, installation, modification, renovation, or rehabilitation of land, interests in land, buildings, structures, facilities, or other development in an area that was not previously developed but is surrounded by existing development.
"*Letter of Map Change (LOMC*)" is a letter issued by FEMA officially removing a structure or lot from the flood hazard area based on information provided by a certified engineer or surveyor. This is used where structures or lots are located above the base flood elevation and have been inadvertently included in the mapped special flood hazard area. A LOMC can include a Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), Letter of Map Revision based on Fill (LOMR-F), or a Letter of Map Revision for a Floodway (LOMR-FW).
"Lowest floor" means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 C.F.R. § 60.3.
"National Flood Insurance Program" means the National Flood Insurance Program under 42 U.S.C. chapter 50 and implementing federal regulations in 44 C.F.R. parts 59 and 60. The National Flood Insurance Program aims to reduce the impact of flooding on private and public structures. It does so by providing affordable insurance to property owners in communities that adopt and enforce floodplain management regulations. These efforts help mitigate the effects of flooding on new and improved structures.
*"**Natural and beneficial floodplain functions"*** means the functions associated with the natural or relatively undisturbed floodplain that includes moderating flooding, retaining flood waters, and reducing erosion, sedimentation and flood related damage. Ancillary beneficial functions include support of ecosystem services such as wildlife habitat, water quality, and recharge of ground water.
"New construction" means structures for which the *start of construction* commenced on or after the effective date of this bylaw and includes any subsequent improvements to such structures.
"Nonconforming structure" means a structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the Zoning Administrator. Structures that were in violation of the regulations in effect at the time of their creation, and remain so, remain violations and are not nonconforming structures.
"Nonconforming use" means use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the Zoning Administrator.
"Non-residential" includes: businesses, churches, schools, nursing homes, pool houses, clubhouses, recreational buildings, government buildings, mercantile structures, industrial structures, and warehouses.
***"Person*"** means an individual, a corporation, a partnership, an association, and any other incorporated or unincorporated organization or group.
"Public water access" means a public access to a water of the State and, except for toilet facilities, shall not include structures as defined in this bylaw.
"Recreational vehicle" means a vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
"Redevelopment" means construction, installation, modification, renovation, or rehabilitation of land, interests in land, buildings, structures, facilities, or other development in a previously developed area. The term includes substantial improvements and repairs to substantially damaged buildings.
"Replacement structure" means a new building placed in the same footprint as the pre-existing building and does

not include a change in use.
"River" means the full length and width, including the bed and banks, of any watercourse, including rivers, streams, creeks, brooks, and branches which experience perennial flow. "River" does not mean constructed drainageways, including water bars, swales, and roadside ditches.
"River corridor" means the land area adjacent to a river that is required to accommodate the dimensions, slope, planform, and buffer of the naturally stable channel and that is necessary for the natural maintenance or natural restoration of a dynamic equilibrium condition and for minimization of fluvial erosion hazards, as delineated by the Vermont Agency of Natural Resources in accordance with river corridor protection procedures. (10 V.S.A. § 1422).
"Spcial flood hazard area" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. For purposes of this bylaw, the term "area of special flood hazard" is synonymous in meaning with the phrase "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 FEMA. Maps of this area are available for viewing in the municipal office or online from the FEMA Map Service Center: msc.fema.gov. Base flood elevations have not been determined in Zone A where the flood risk has been mapped by approximate methods. Base flood elevations are shown at selected intervals on maps of special flood hazard areas that are determined by detailed methods. Please note, where floodways have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps.
"Start of construction" for purposes of floodplain management, determines the effective map or bylaw that regulated development in the special flood hazard area. The "start of construction" includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
"Storage" means the aggregation of materials, items, or objects whether natural or human-made; that is kept as a stockpile, collection, or inventory; where individual materials from the stockpile, collection or inventory may change, but where the general footprint of the stored materials continues to be used for the same purpose; whether set upon the land or within a container, structure, or facility; and that would not otherwise be in compliance with these development standards.
"Structure" means a walled and roofed building, as well as a manufactured home, including gas or liquid storage tanks.



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

"Substantial improvement" [4] means any repair, reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of this bylaw, the cost of which, over three years or over the period of a common plan of development, cumulatively equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure."



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

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

"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 C.F.R. § 60.3 is presumed to be in violation until such time as that documentation is provided.

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

"Wet-floodproofing" means permanent or contingent measures applied to a structure that prevent or provide resistance to damage from flooding by allowing water to enter the structure in accordance with Technical Bulletin 7 published by FEMA. https://www.fema.gov/media-library/assets/documents/3503

Section 804. Administration

(a) Zoning Administrator & Appropriate Municipal Panel

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[4] For further guidance, see *FEMA P-758, Substantial Improvement/Substantial Damage Desk Reference:* https://www.fema.gov/media-library/assets/documents/18562

(1) Zoning Administrator (ZA)
   i. An Zoning Administrator (ZA) shall be appointed to administer this bylaw pursuant to 24 V.S.A. § 4448 and **Article XI. Administration**.
(2) Appropriate Municipal Panel (AMP)
   i. The Appropriate Municipal Panel (AMP) for this bylaw shall be the Development Review Board (DRB). See **Article XI. Administration**.

(b) Application Administration Requirements
(1) Application Submission Requirements
All Applications for development shall include:
i. **Site Plan.** A site plan that depicts the proposed development, all water bodies, all (Flood Hazard Area and River Corridor Overlay Districts) boundaries, the shortest horizontal distance from the proposed development to the top of bank of any river, any existing and proposed drainage, any proposed fill, pre- and post-development grades, and the elevation of the proposed lowest floor as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps;
ii. **Project Review Sheet.** A Vermont Agency of Natural Resources Project Review Sheet.
iii. **Supplemental Application Requirements.** Some applications may require additional information based on the location and type of the development. The following information shall be developed and provided with an application, as required below:
   a) **Base Flood Elevation (BFE)**. BFE information is required for:
      i) Replacement, substantially improved, or substantially damaged structures located within any Flood Hazard Overlay District, including Zone A, where no BFEs have been provided;
      ii) Projects requiring elevation or dry-floodproofing above BFE;
      iii) Additions to existing historic structures; and
      iv) Any accessory structure proposed to be built in accordance with Section 808 and having building utility systems that will need to be protected from flood waters through elevation above the BFE.
   b) **Floodway Data.** The following information is required for development located in the floodway. All floodway data shall be certified by a registered professional engineer. All submitted proposals shall include electronic input/output files and mapping showing cross-section locations.
      i) Hydraulic calculations demonstrating no rise in BFE or velocity for proposed new or expanded encroachments within the Floodway District.
      ii) In accordance with 44 C.F.R. § 60.3(c)(10), where BFE data has been provided by FEMA, but no floodway areas have been designated, the applicant shall provide a floodway delineation that demonstrates that the proposed development, when combined with all existing and anticipated future development, will not increase the water surface elevation of the base flood by more than one foot at any point within the community.
   c) **Compensatory Flood Storage.** The following information is required for applications that require compensatory flood storage pursuant to Section 808:
      i) Designs shall provide equivalent storage volumes during peak flows up to and including the base flood discharge. This No Adverse Impact (NAI) volumetric analysis and supporting data shall be certified by a registered professional engineer.

ii) If it appears that the design may create an undue adverse impact to adjacent landowners or structures, a hydraulic analysis may be required to verify that a proposed development will not increase flood elevations or velocities of floodwaters. Hydraulic analyses and supporting data shall be provided by the applicant and certified by a registered professional engineer.

d) **River Corridor Assessment.** The following information is required for applications proposing development within the river corridor:

1. Information clearly demonstrating how the proposed development meets the infill or shadowing requirements in Section 807; or
2. A narrative and supporting technical information from a qualified consultant that demonstrates how the proposal meets the River Corridor Performance Standard in Section 807 or
3. Evidence of an approved major or minor map update issued by ANR in accordance with the process outlined in the DEC Flood Hazard Area & River Corridor Protection Procedure, finding the proposed development is not located within the river corridor. Please note that ANR may require the applicant to provide technical data from a qualified consultant to justify a map update.

e) **Waivers.** Upon written request from the applicant, the DRB may waive specific application requirements when the data or information is not needed to comply with Sections D. and E. of this bylaw. A determination to waive the compensatory storage requirement shall include written concurrence from the ANR regional floodplain manager, that project will have only a minimal effect on floodwater storage.

(2) Referrals

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

ii. Any application for a proposed conditional use or a request for a variance from these regulations shall be referred to the DRB in accordance with 24 V.S.A. § 4460.

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

(3) Public Notice

See **Article XI. Administration.**

(4) Permits
See **Article XI. Administration.**

(5) Variances
See **Section 1111. Variances**.

If the proposed development is located within any Flood Hazard Overlay District, the proposal shall comply with 44 C.F.R. § 60.6.

i. Any variance issued in the Flood Hazard Area shall not increase flood heights and shall inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the BFE increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as $25 for $100 of coverage. Such notification shall be maintained with a record of all variance actions.

(6) Appeals of a Permit Decision

i. Appeals from any decision or act of the ZA in connection with these regulations shall be made according to Section 1110. Appeals. Additional provisions applicable to appeal of a substantial improvement or substantial damage determination made by the ZA can be found in sub-paragraph C.III.B.4 [Substantial Improvement and Substantial Damage Determinations, Post Flood Procedures], below .

(7) Administrative Responsibilities, Records

The ZA shall properly file and maintain a record of:

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

ii. Substantial Improvement and Substantial Damage Determinations, Post Flood Procedures
   a. When a proposal for the renovation, rehabilitation, restoration, or repair of a structure located within any Flood Hazard Overlay District is reviewed, the ZA shall make a substantial improvement determination.
   b. In the event of damage to a structure located within any Flood Hazard Overlay District from flooding or other causes (such as, but not limited to, fire, wind or snow), the ZA shall make a substantial damage determination based on the damage sustained by the structure regardless of intended repair at that time.
   c. Substantial improvement or substantial damage determinations shall be made in

accordance with current FEMA guidelines[5] or procedure established by the DRB in accordance with 24 V.S.A. § 1972 and 24 V.S.A. § 4461 and shall be used to determine the appropriate development standards for repair and rebuilding.

d. A substantial improvement or substantial damage determination can be appealed by an applicant or property owner to the DRB in accordance with sub-paragraph C.II.G [Appeals of a Permit Decision] of this bylaw. In the consideration of an appeal of the ZA's determination, the DRB shall consider additional documentation provided by the applicant which may include:

   1. A recent building appraisal (within the past calendar year, or as determined to still be applicable) completed by a licensed and qualified real estate appraiser that documents the structure's market value (excluding land value) prior to the damage or improvement; or
   2. A project/repair cost estimate provided by a qualified contractor, professional engineer or licensed architect. The material and labor cost estimate shall include a detailed accounting of the proposed improvements, additions, reconstruction or rehabilitation work, repairs or associated construction and development; or
   3. In the case of substantial damage, an estimate of structure damage provided or reviewed by a local official from FEMA's *Substantial Damage Estimator* software.

Section 805. Certificate of Occupancy

See **Article XI Administration – Section 1107.**

All required as-built documentation has been submitted to the ZA, e.g. updated FEMA Elevation Certificate, dry floodproofing certificate, as-built volumetric analysis, or as- built floodway encroachment analysis.

Section 806. Enforcement

See **Article XI Administration – Section 1114.**

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

	Activity	**Hazard Zone**	
	P Permitted **C** Conditional Use Review	**Flood Hazard Area**	**River Corridor**

[5] FEMA P-758, Substantial Improvement/Substantial Damage Desk Reference: https://www.fema.gov/media-library/assets/documents/18562

	X Prohibited **A** Exempted	**Overlay**	**Overlay**
	New Structures	C	X
	Storage	X	X
	Improvements to Existing Structures	C	C
	Small Accessory Structures	P	C
	At Grade Parking	C	C
	Replacement water supply or septic systems	C	C
	Fill as needed to elevate existing structures	C	C
	Fill	X	X
	Grading	C	C
	Road maintenance	A	A
	Road improvements	C	C
	Bridges and culverts	C	C
	Channel management	C	C
	Recreational vehicles	C	C
	Open space, recreation	A	A
	Forestry	A	A
	Agriculture	A	A

Section 807. Erosion: River Corridor Overlay (RCO) District

(a) Statement of Purpose for Managing River Corridors

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

(b) RCO District General Provisions

(1) Establishment of_RCO Districts

The RCO is an overlay district. All other requirements of the underlying district or another overlay district such as the Flood Hazard Overlay District, shall apply in addition to the provisions herein, unless it is otherwise so indicated. If there is a conflict with another such district, the stricter provision shall apply.

(2) RCO District Boundaries

i. Article D of this bylaw shall apply to the Statewide River Corridors in the Town of Brandon, Vermont, as published by the Agency of Natural Resources (ANR)

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

ii. On perennial streams with a watershed size greater than half a square mile for which River Corridors are not mapped[6], the standards in Section D.IV [Development Standards] shall apply to the area measured as 50 feet from the top of the stream bank or slope.

iii. Requests to update a river corridor map shall be in accordance with the procedure laid out in the ANR *Flood Hazard Area and River Corridor Protection Procedure*[7].

(3) Jurisdictional Determination and Interpretation

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

i. Hire a licensed land surveyor or registered professional engineer to stake out the RCO boundary on the property; or
ii. Request a letter of determination from ANR which shall constitute proof of the location of the river corridor boundary.[8] When ANR receives a request for a letter of determination, ANR evaluates the site and existing data to see if a change to the river corridor delineation is justified, necessitating a river corridor map update[9]. An ANR letter of determination will either confirm the existing river corridor delineation or will result in an update to the river corridor delineation for the area in question. If a map update is justified, an updated map will be provided with the letter of determination.

Section 808. Development Review in River Corridor Overlay District

(a) Exempted Activities

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[6] A GIS map layer is available from DEC Rivers Program indicating the small stream segments that a require a 50-foot setback.
[7] http://dec.vermont.gov/sites/dec/files/documents/DEC_FHARCP_Procedure.pdf
[8] In support of a letter of determination request, applicants must provide a description of the physical characteristics that bring the river corridor delineation into question (e.g. the presence of bedrock or other features that may confine lateral river channel adjustment.
[9] River Corridor map updates are further explained in the Flood Hazard Area & River Corridor Protection Procedure: http://dec.vermont.gov/sites/dec/files/documents/DEC_FHARCP_Procedure.pdf

The following activities do not require a permit under this section of the bylaw:

(1) The removal of a building or other improvement in whole or in part, so long as the ground elevations under and adjacent to the removed structure remain unchanged.
(2) Any changes, maintenance, repairs, or renovations to a structure that will not result in a change to the footprint of the structure or a change in use.
(3) Maintenance of existing sidewalks, roads, parking areas, or stormwater drainage; this does not include expansions.
(4) Maintenance of existing bridges, culverts, and channel stabilization activities; this does not include expansions.
(5) Construction or repair of stream crossing structures (bridges and culverts), associated transportation and utility networks[10], dams, dry hydrants, and other functionally dependent uses that must be placed in or over rivers and streams that are not located in a flood hazard area and that have coverage under a Stream Alteration Permit, if required, under 10 V.S.A. Chapter 41 and the rules adopted thereunder.
(6) Activities exempt from municipal regulation and requiring a permit under the State's "Vermont Flood Hazard Area and River Corridor Rule" (Environmental Protection Rule, Chapter 29) [11]:
    i. State-owned and operated institutions and facilities.
    ii. Forestry operations or silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont or other accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation.
    iii. Agricultural activities conducted in accordance with the Vermont Agency of Agriculture, Food and Market's Required Agricultural Practices (RAPs). Prior to the construction of farm structures, the farmer shall notify the ZA in writing of the proposed activity. The notice shall contain a sketch of the proposed structure including setbacks.
    iv. Public utility power generating plants and transmission facilities regulated under 30 V.S.A. § 248.
    v. Telecommunications facilities regulated under 30 V.S.A. § 248a.
    vi. Planting projects which do not include any construction or grading activities in accordance with 24 V.S.A. § 4424(c).
    vii. Subdivision of land that does not involve or authorize development.

(b) Permits

Except as provided in Section 808 (a) [Exempted Activities], a permit is required from the ZA for all development that is located within the River Corridor. Development that requires conditional use

[10] New transportation or utility development that runs parallel to the river is not exempt and shall meet the Development Standards in Section IV.
[11] State-owned and -operated institutions and facilities, Forestry, Required Agricultural Practices, and Public Utility Commission jurisdictional facilities located in a Flood Hazard Area or River Corridor are regulated under the State Flood Hazard Area & River Corridor Rule, 10 V.S.A. § 754.

approval or a variance from the Development Review Board (DRB) under this bylaw must have such approvals prior to the issuance of a permit by the ZA. Any development that is also subject to municipal jurisdiction in the designated flood hazard areas shall meet the criteria in Section 808 (or other section where flood hazard area standards are located).

(1) All permits shall require that a permittee have all other necessary permits from state and federal agencies before work may begin.

(c) Prohibited Development in the RCO District

The following are prohibited in the RCO District:

(1) New structures, fill, development, and accessory dwellings[12] that do not meet the standards in Section 808 (f) [Development Standards];
(2) Any other development that is not exempt, permitted, or listed as a conditional use which would cause or contribute to fluvial erosion hazards.

(d) Administrative Review; Permitted Development

The following development activities in the RCO District meeting the Development Standards in Section 808 (f), require an administrative review from the ZA and may receive a permit from the ZA without review by the DRB:

(1) Small accessory structures not larger than 500 square feet.
(2) Improvements to existing utilities that are along an existing right of way and serve a building.
(3) Replacement on-site septic systems.
(4) An attached deck or patio to an existing structure that is 200 square feet or less and is located no less than 100 feet from the top of bank.[13]
(5) River or floodplain restoration projects that do not involve fill, structures, utilities, or other improvements, and which have written confirmation from the ANR Regional Floodplain Manager that the project is designed to meet or exceed the applicable standards in this bylaw.[14]

(e) Conditional Use Review

In accordance with 24 V.S.A. § 4414, conditional use review and approval by the DRB is required prior

[12] Depending on community settlement patterns, and to ease bylaw administration, some communities may consider simply prohibiting new structures within the river corridor (as opposed to allowing infill and redevelopment).
[13] An attached deck or patio does not include enclosed or three-season porches.
[14] Applicants should be made aware that any restoration project involving work within the stream channel may require a Stream Alteration Permit under 10 V.S.A. Chapter 41 and the rules adopted thereunder.

to the issuance of a permit by the ZA for any activity[15] in the RCO District that is not exempt or eligible for administrative review.

(f) Development Standards

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

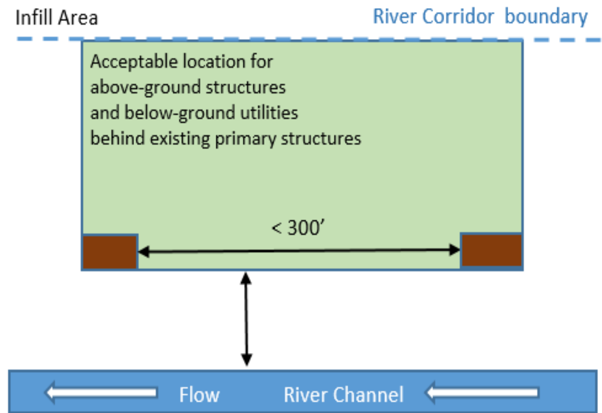

Figure 1: In-fill Development Standard

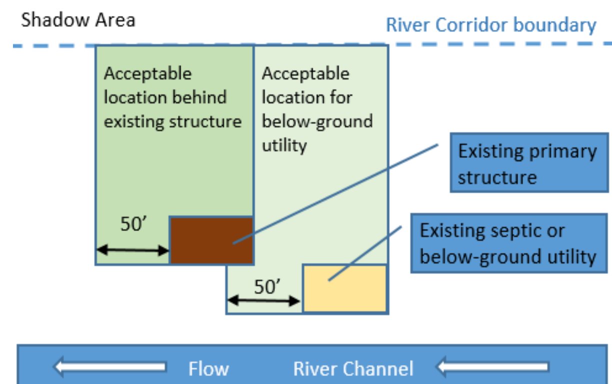

Figure 2: Shadow Area Development Standard

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

(2) Development outside of designated centers shall meet the following criteria:

i. <u>In-Fill Between Existing Development</u>: Development must be located no closer to the channel than the adjacent existing primary structures, within a gap that is no more than 300 feet (see Figure 1), or

ii. <u>Down River Shadow</u>: 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).

(3) River Corridor Performance Standard[16]

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[15] This includes public water accesses and unimproved paths that provide access to the water for the general public and promote the public trust uses of the water. Permits for such accesses and paths must include a condition prohibiting the permittee from actively managing the section of river to solely protect the public water access from lateral river channel adjustment.
If there are pre-existing investments such as infrastructure or habitable structures in close proximity to the access, it may be appropriate to provide streambank armoring in compliance with the Vermont Stream Alteration Rules; http://dec.vermont.gov/watershed/rivers/river-management#rules

[16] Depending on community settlement patterns and development plans, some communities may consider removing the river corridor performance standard to create a more restrictive bylaw that is easier to administer.

i. Proposals that do not meet the infill or shadowing criteria in Section 807 (f) [Development Standards] A or B must demonstrate and the DRB must find that the proposed development will:
ii. not be placed on land with a history of fluvial erosion damage or be imminently threatened by fluvial erosion;
iii. 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
iv. not result in an immediate need or anticipated future need for stream channelization solely as a result of the proposed development, that would increase flood elevations and velocities or alter the sediment regime triggering channel adjustments and erosion in adjacent and downstream locations.
v. Proposals that meet the infill or shadowing criteria in section f.[Development Standards] A or B, are presumed to meet the River Corridor Performance Standard. However, The DRB has the option to require an applicant to demonstrate that a proposal meets the River Corridor Performance Standard if there is a concern that the proposed development is at particular risk from fluvial erosion or may increase fluvial erosion, based on location or past flood damage.
vi. The DRB may request or consider additional information to determine if the proposal meets the River Corridor Performance Standard, including:

   a. a description of why the shadowing and infill criteria in D.IV.A or B cannot be met;
   b. data and analysis from a consultant qualified in the evaluation of river dynamics and erosion hazards; or
   c. Comments provided by the DEC Regional Floodplain Manager on whether the proposal meets the River Corridor Performance Standard.

(g) Permit Conditions

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

Section 809. Flood Hazard Area Overlay (FHO) District

(a) Statement of Purpose for Managing Inundation Hazards

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

(b) Lands to Which this Bylaw Applies

(1) Special Flood Hazard Areas

This bylaw shall apply to the Special Flood Hazard Areas (SFHAs, hereafter referred to as "flood hazard areas" or "FHAs") in the Town of Brandon, Vermont as described below. Flood Hazard Areas are identified in and on the most current flood insurance studies and maps[17] published by the Department of Homeland Security, Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources (ANR) pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of this bylaw.

Establishment of the FHO District

The FHO is an overlay district. All other requirements of the underlying district or another overlay district such as the River Corridor Overlay District, shall apply in addition to the provisions herein, unless it is otherwise so indicated. If there is a conflict with another such district, the stricter provision shall apply. The flood hazard area, as delineated by FEMA, may contain two parts; the floodway where limited development may be permitted and the remaining part of the flood hazard area (outside of the floodway) called the flood fringe. Within the flood hazard area, the inundation risk and type of damages may differ according to the type of flooding that occurs. Therefore, the identified FHO district is separated into different sub-districts to provide protection based upon flooding type:

i. The floodway - The floodway is depicted on the Flood Insurance Rate Maps/Flood Boundary and Floodway Maps for this community[18].
ii. The flood fringe - identified as the area of the FEMA Special Flood Hazard Area (labeled as Zone A, AE, A1-30, AH, AO) outside of the floodway on the most current NFIP maps.
iii. Unless one of these sub-districts is specifically named, reference to the FHO District Includes both. Unless one of these zones is specifically named, reference to the Flood

[17] Where Flood Insurance Rate Maps have not been published, this includes Special Flood Hazard Areas identified on Flood Hazard Boundary Maps produced by the Federal Insurance Administration.

[18] Please note that the floodway may be shown on a separate map panel entitled "Flood Boundary and Floodway Map" for maps made in 1986 or earlier. Maps can be accessed online at https://msc.fema.gov

Hazard Area Includes both sub-zones.

(2) Base Flood Elevations and Floodway Limits

i. Where available, base flood elevations and floodway limits provided by the NFIP and in the Flood Insurance Study and accompanying maps shall be used to administer and enforce this bylaw.
ii. The floodway, as adopted by this community, shall consist of the channel of a river or other watercourse and the adjacent land areas that shall be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.
iii. In the FHO District where base flood elevations and/or floodway limits have not been provided by the NFIP in the Flood Insurance Study and accompanying maps, it is the applicant's responsibility to develop the necessary data, as specified in Section 804 [Administration]. Where available, the applicant shall use data provided by FEMA, or state or federal agencies to administer this bylaw.

(3) Jurisdictional Determination and Interpretation

The information presented on any maps, or contained in any studies, adopted by reference, is presumed accurate.
i. If uncertainty exists with respect to the boundaries of the FHO District, the location of the boundary shall be determined by the Zoning Administrator (ZA). The ZA may require additional topographic or base flood elevation information if necessary to make such determination. If available, the ZA shall use a FEMA Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR) in making a determination. Once issued, the LOMA or LOMR shall constitute proof of the FHO boundary and whether the proposed development is within the FHO.[19].
ii. A FEMA Letter of Map Revision based on Fill (LOMR-F) that has been issued after the effective date of this bylaw shall not be used to remove lands from the jurisdiction of this bylaw.
iii. When the ZA deems a property is within the FHO District, an applicant seeking to challenge such determination shall have 15 days from the date of receiving the ZA's determination to notify the ZA of his or her intent to seek proof of the boundary. Upon timely filing of such notification letter by the applicant, the application for the zoning permit shall not be considered complete until the ZA has received a LOMA or LOMR issued by FEMA or any other evidence identified in such notice.

(c) Development Classifications and Permit Requirements in the FHO District

(1) Exempted Activities

[19] https://www.fema.gov/letter-map-amendment-letter-map-revision-based-fill-process

The following activities do not require a permit under this section of this bylaw:

i. The removal of a building or other improvement in whole or in part, so long as the ground elevations under and adjacent to the removed structure remain unchanged. Please be aware that for damaged structures where FEMA mitigation funds may be used, the damaged structure may be required to remain in place until funds are granted.
ii. Routine maintenance of existing buildings in the usual course of business required or undertaken to conserve the original condition, while compensating for normal wear and tear. Routine maintenance includes actions necessary for retaining or restoring a piece of equipment, machine, or system to the specified operable condition to achieve its maximum useful life and does not include expansions or improvements to development.
iii. Interior improvements to existing buildings that cost less than 500 dollars.
iv. Maintenance of existing sidewalks, roads, parking areas, or stormwater drainage; this does not include expansions.
v. Maintenance of existing bridges, culverts, and channel stabilization activities; this does not include expansions.
vi. Streambank armoring and stabilization, retaining walls, and abutment work that do not reduce the cross-sectional flow area of the river or stream channel and have coverage under a Stream Alteration Permit, if required, under 10 V.S.A. Chapter 41 and the rules adopted thereunder.
vii. 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):
    a. State-owned and -operated institutions and facilities.
    b. 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.
    c) 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.
    d) Public utility power generating plants and transmission facilities regulated under 30 V.S.A. § 248.
    e) Telecommunications facilities regulated under 30 V.S.A. § 248a;
viii Planting projects which do not include any construction or grading activities in accordance with 24 V.S.A. § 4424(c).
ix. Subdivision of land that does not involve or authorize development.

(2) Permits

Except as provided in Section 809 (c) 1 [Exempted Activities], a permit is required from the ZA for all development that is located within the FHO District. Development that requires conditional use approval or a variance from the Development Review Board (DRB) under this bylaw must have such approvals prior to the issuance of a permit by the ZA.

i. All permits shall require that a permittee have all other necessary permits from state and

federal agencies before work may begin.

(3) Administrative Review; Permitted Development

The following development activities in the FHO District meeting the Development Standards in Section E.IV, require an administrative review from the ZA and may receive a permit from the ZA without review by the DRB:

(A) Within the entire FHO District:

i. Above grade development located on ground, which has not been elevated by the placement of fill, that is one foot above base flood elevation and documented with field-surveyed topographic information certified by a registered professional engineer or licensed land surveyor.
ii. Open fencing and signs elevated on poles or posts that create minimal resistance to the movement of floodwater.
iii. At-grade parking or other at-grade/below grade development that will not create an obstruction to flood flows.
iv. Municipal transportation infrastructure improvements designed and constructed by the Vermont Agency of Transportation that have written confirmation from the ANR Regional Floodplain Manager that the project is designed to meet or exceed the applicable standards in this bylaw.
v. River and floodplain restoration projects, including dam removal, that restore natural and beneficial floodplain functions and include written confirmation from the ANR Regional Floodplain Manager that the project is designed to meet or exceed the applicable standards in this bylaw.

(B) Within the Flood Fringe Sub-district:

i. 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”.
ii. Accessory structures not greater than 500 square feet.
iii. Development related to on-site septic or water supply systems.
iv. Building utilities.
v. Recreational vehicles or travel trailers.
vi. New fill for existing associated transportation and utility networks or to accommodate a replacement on-site septic system, if it can be demonstrated that no other practicable alternative is available.

(4) Prohibited Development

Except as provided in Section 808 (c) 1[Exempted Activity], the following is prohibited:

(A) Within the entire FHO District:
i. Fully enclosed areas below grade on all sides, including below grade crawlspaces and basements.

ii. New critical facilities.

(B) Within the Floodway Sub-district:

i. New accessory structures.
ii. New encroachments, except for minor improvements[20] to existing structures or relating to bridges, culverts, roads, stabilization projects, public utilities, river and/or floodplain restoration projects, or health and safety measures.
iii. Changes to existing structures where the footprint of the structure is proposed to expand laterally into the floodway greater than 500 square feet.
iv. Storage of materials or junk yards.

(5) Conditional Use Review

In accordance with 24 V.S.A. § 4414, conditional use review and approval by the DRB is required prior to the issuance of a permit by the ZA for any activity in the FHO District that is not exempt or eligible for administrative review.

(6) Non-Conforming Structures and Uses

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

(d) Development Standards

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

(1) Floodway Sub-district

Within the floodway sub-district, the following standards apply:

i. New encroachments are prohibited within the floodway, except for the following, which also shall comply with Section 809 (d)(1)(ii), below:
   a. changes to existing structures where the footprint is proposed to expand horizontally into the floodway less than 500 square feet;
   b. new encroachments relating to bridges, culverts, roads, stabilization projects, public utilities, functionally dependent uses, and river or floodplain restoration projects;

c. new encroachments relating to health and safety measures, such as replacement of pre-existing on-site septic and water supply systems, if no other practicable alternative is available;

ii. For all proposed new encroachments and above-grade development, a hydraulic analysis is required to be provided for review. The analysis should be performed in accordance with standard engineering practice, by a registered professional engineer, certifying that the proposed development will:
   a. Not result in any increase in flood levels during the occurrence of the base flood;
   b. Not increase base flood velocities; and
   c. Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.

iii. For development that is either below grade or will not result in any change in grade, the hydrologic & hydraulic analyses may be waived, where the applicant will provide pre- and post-development elevations demonstrating that there will be no change in grade, and that the development will be adequately protected from scour.

iv. For any new encroachment that is proposed within the floodway sub-district where a hydraulic analysis is required, the applicant may provide a FEMA Conditional Letter of Map Revision (CLOMR)[21], in lieu of a hydraulic analysis, to demonstrate that the proposed activity will not have an adverse impact.

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

Within the flood fringe, the following standards apply:

(1) Compensatory Flood Storage

New development or redevelopment shall not decrease flood storage capacity. Therefore, except as noted in subsection (d) (2) [Compensatory Flood Storage Requirement Exceptions] below, development that displaces floodwater storage in the flood fringe shall provide compensatory storage to offset the impacts of the proposal. This is required when the development will cause an increase or will contribute incrementally to an increase in the horizontal extent and level of flood waters during peak flows up to and including the base flood discharge.

i. Volumetric analyses[22] and supporting data, demonstrating compensatory storage to offset the impacts of the proposal, shall be provided by the applicant and certified by a registered professional engineer.

ii. An applicant may submit a hydraulic analysis that demonstrates that a project will not increase flood elevations and velocities on floodwaters in lieu of a NAI volumetric analysis.

iii. Compensatory flood storage designs shall not materially impact adjacent landowners or structures.

iv. If the design may create an undue adverse impact to adjacent landowners or structures, a hydraulic analysis shall be required to verify that a proposed

[21] https://www.fema.gov/conditional-letter-map-revision

[22] For more information on volumetric analysis, please refer to ANR's Compensatory Flood Storage guide at http://dec.vermont.gov/watershed/rivers/river-corridor-and-floodplain-protection/state-permits

development will not increase base flood elevations and velocities.

Hydraulic analyses and supporting data shall be provided by the applicant and certified by a registered professional engineer

(2) Compensatory Flood Storage Requirement Exceptions

i. The NAI compensatory storage requirement may be waived for proposed designs that have no more than a minimal effect on floodwater storage and will not result in diverting floodwaters onto an adjacent property or structure. Examples of designs that have a minimal effect on floodwater storage include an open foundation design; utility work that is largely or completely located below grade; minor above ground improvements such as fences or poles that minimally displace or divert floodwaters; and development that will not result in any change to the pre-development ground elevations. A determination to waive the NAI compensatory storage requirement shall include written concurrence from the ANR regional floodplain manager, that the project will have only a minimal effect on floodwater storage.

ii. For remediation of properties with contaminated soils, such as Brownfields sites, the NAI compensatory storage requirement may be waived, if hydraulic analysis demonstrates that the remediation will not increase flood elevations and velocities. Hydraulic analyses and supporting data shall be provided by the applicant and certified by a registered professional engineer.

iii. The NAI compensatory storage requirement may be waived for a replacement structure if:
   (a) There is no increase in the structure's footprint, or
   (b) An open foundation design is used. Examples include using compliant flood vents or openings, or elevating the structure on post, piers, or pilings with no structural foundation walls below the design flood elevation.

v. The NAI compensatory storage requirement may be waived for associated transportation and utility networks[23] and replacement on-site septic system proposals, if the applicant demonstrates that the placement of fill cannot be mitigated.

(3) The FHO District (Zones A1-30, AE, AH, AO)

Within the FHO District, the following standards apply:

(A) All development, except development that is exempt under Section 809 (c) 1, shall be:
   i. Reasonably safe from flooding.
   ii. Designed (or modified) and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure.
   iii. Constructed with materials resistant to flood damage.
   iv. Constructed by methods and practices that minimize flood damage.
   v. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment

[23] These do not include state transportation networks or power generation and transmission utility networks subject to the Public Utility Commission jurisdiction, as those are exempt from municipal regulation and are regulated under the State Flood Hazard Area & River Corridor Rule; http://dec.vermont.gov/sites/dec/files/documents/wsmd-fha-and-rc-rule-adopted-2014-10-24.pdf

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.

vi. Adequately drained to reduce exposure to flood hazards.

vii. Required to elevate or floodproof any fuel storage tanks to at least two feet above the base flood elevation. This can be achieved by:

viii. Elevating the fuel storage tank a minimum of two feet above the BFE and securely anchoring the tank to prevent flotation. The tank shall be located on the land-ward or downstream side of the building and all inlets, fill openings, line connections, and vents shall be elevated to two feet above the BFE. Any structure or platform used to elevate the tank shall be designed to withstand anticipated flood loads and forces;

iv. In places where elevation of the fuel storage tank is not possible due to the location of existing fuel hookup/fuel lines into an existing building:

vi. The tank shall be securely anchored to prevent floatation while protecting it from flood forces and debris. Any structure or platform used to anchor and protect the tank shall be designed to withstand anticipated flood forces and debris. The tank vent pipe/valve shall be located at a minimum two feet above the BFE; or

vii. Storage tanks may be placed underground, if securely anchored and certified by a qualified professional and are protected from flood forces such as scour, erosion, velocity flow, and buoyancy (uplift) force.

(B) For any new structure, replacement structure, substantially improved structure, or structure that has experienced substantial damage, outdoor utilities (electrical, heating, ventilation, plumbing, and air conditioning equipment) and other service facilities (such as sewer, gas, and water systems), shall be located on the landward or downstream side of the building and/or behind structural elements, and located and constructed to minimize or eliminate flood damage.

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

(D) For new, replacement or substantially improved structures, or for structures that have incurred substantial damage, fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited.

(E) Recreational vehicles, equipment and boat trailers, portable toilets, construction trailers, and other travel trailers shall:

i. Be currently registered, licensed and ready for highway use; or

ii. Be on site for fewer than 180 consecutive days; or

iii. Meet the requirements for structures in Section 809 (h) [Development Standards], as appropriate.

(F) Water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(G) 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.

(H) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(I) The flood carrying capacity within any altered or relocated portion of any watercourse shall be maintained, any alteration or relocation shall not result in any decrease of stream stability.

(J) Bridges, culverts and channel management activities, which by their nature shall be placed in or over the watercourse, shall have a Stream Alteration permit from the Agency of Natural Resources, if required.

(K) Subdivisions and Planned Unit Developments shall be accessible by dry land access of outside of any FHO District

(L) Structural Standards

i. New structures, existing structures to be substantially improved or replaced, or that have incurred substantial damage shall be located such that the lowest floor is at least two feet above base flood elevation. This shall be documented in the proposed and as-built condition with a FEMA Elevation Certificate.

ii. New non-residential structures, and non-residential structures to be substantially improved, replaced, or that have incurred substantial damage shall:

1. Meet the standards of Section 809 (L) i., above; or
2. Have the lowest floor, including basement, together with attendant utility and sanitary facilities, designed so that two feet above the base flood elevation the structure is dry floodproofed, meaning watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
3. 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;
4. Dry floodproofing measures used to meet the above floodproofing standard shall work without the use of human intervention at the time of flooding. Exceptions to this standard are when the facility is adequately staffed at all hours with people trained and able to deploy the facility's floodproofing measures, or if the structure is located in a floodplain that has a National Weather Service flood forecast stream gauge that provides adequate advanced warning of potential flooding for the deployment of the floodproofing system.

iii. New structures, or existing structures to be substantially improved or replaced, or that have incurred substantial damage in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least two feet above the depth number specified on the community's FIRM, or at least three feet if no depth number is specified.[24]

iv. Critical facilities that are to be replaced, substantially improved, or meet the definition of substantial damage shall be constructed so that the lowest floor, including basement, shall be elevated or dry-floodproofed at least one foot above the elevation of the 0.2% annual flood height (500-year floodplain), or three feet above base flood elevation, whichever is higher. A critical facility shall have at least one access road connected to land outside the 0.2% annual chance floodplain that is capable of accommodating emergency services

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[24] Section 809 (d) (3) (L) iii is not required unless the community has ZA zones on the community's Flood Insurance Rate Map.

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

v. For historic structures that would meet the definition of substantial improvement or substantial damage if not for their historic structure designation, the improved or repaired building shall meet the following mitigation performance standards for areas below the base flood elevation:
   a. Any future damage to enclosures below the lowest floor shall not result in damage to the foundation, utility connections, or elevated portions of the building or nearby structures;
   b. Utility connections (e.g., electricity, water, sewer, natural gas) shall be protected from inundation and scour or be easily repaired;
   c. The building foundation shall be structurally sound and reinforced to withstand a base flood event;
   d. The structure's historic designation shall not be precluded;
   e. The likelihood of flood waters entering the structure during the base flood is reduced; and
   f. There shall be no expansion of uses below base flood elevation except for parking, storage, building access, or, in the case of non-residential buildings, where the space is dry floodproofed.

vi. Fully enclosed areas that are above grade, below the lowest floor, below BFE, and subject to flooding, shall:
   a. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and
   b. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs shall be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above adjacent grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters; and
   c. Include a signed non-conversion agreement from the owner of the structure with the permit application stating that the enclosed area below the BFE will not be converted to another use not listed above in (L) vi (a), above and that the community would have the ability to inspect the exterior and interior of the enclosed area in compliance with the standards laid out in the non-conversion agreement.

vii. A small accessory structure of 500 square feet or less need not be elevated to the base flood elevation, provided the structure is placed on the building site so as to offer the minimum resistance to the flow of floodwaters and shall meet the criteria in (L) vi., above.

Article IX: Sign Regulations

Section 901: Purpose and Scope

The purpose of this Article is to set standards that maintain and improve the attractive aspects of the Town of Brandon; allow and promote positive conditions for sign communication; ensure signs are

designed, constructed, installed, and maintained according to minimum standards to safeguard life, health, property, and public welfare; protect and preserve the Town's historic and aesthetic character; and develop a wayfinding system that provides information and direction. This article incorporates and replaces the Central Business District Sidewalk Sign and Merchandise Display Ordinance to ensure displays and signs do not interfere with the pedestrian traffic and public safety.

(a) The requirements of this Article apply to signs, sign structures, and awnings located within the Town of Brandon that are visible from a public roadway or adjoining property, except for as described in Section 902. Section 1202 of the BLUO defines "Signs", and all sign-related terms.

(b) The Zoning Administrator must issue a permit before any non-exempt sign is installed, erected, enlarged, replaced, redesigned, or altered in conformance with all BLUO provisions. A permit application form, which adheres to Section 908, must be completed, and submitted to the Zoning Administrator before the Zoning Administrator can issue a permit. The Zoning Administrator must render a decision on the permit application, in a manner that adheres to Section 909.

(c) Display of merchandise or retail products for commercial purposes shall not be permitted within the required setback from a public or private right-of-way except for the temporary display of merchandise on the sidewalk which shall be placed against the front wall of a merchant's place of business. A minimum of six (6) foot wide passage shall be maintained for pedestrian traffic at all times along the sidewalk. Off-premises signs are prohibited.

Section 902: Exemptions

(a) The requirements of this Article shall not apply to any sign, sign structure, or awning that is not visible from a public roadway or adjoining property, nor shall apply to any non-commercial flag. The provisions shall not apply to any painted and/or applied wall accents and decorations. This Article shall not apply to illuminated building accents and decorations, but Section 614 may apply.

(b) In addition to Section 902(a), the following are exempt from this Article, provided the sign must be structurally sound and located so that they do not pose a threat to pedestrian or vehicular traffic, and must meet minimum standards to safeguard life, health, property, and public welfare.

(1) One temporary sign (portable signs displayed when a commercial establishment is open, signs displayed to facilitate the sale of real estate of the lot, portable election-related signs, etc.) per street frontage provided the sign is placed adjacent to the curb, against the building, or on green space and is limited to 4 feet in height and 10 square feet in face area. A temporary sign that is a special events sign may have a face area no greater than 20 square feet.
(2) Window Signs (interior or exterior occupying a maximum of 30% of total window area).
(3) Signs carved into a building or raised, provided that carved signs or letters must be a physical part of the building façade, and thus made of the same materials as the building façade. Attached letters or signs to the building's exterior façade do not qualify, even if the same finish or color.
(4) Signs required by federal or state law or signs erected by the Town of Brandon, state or federal government, or utilities & public facilities (including traffic, safety, bus stops, park-and-rides, railroad crossing, and identification signs for public facilities).
(5) One sign indicating the address, number, and/or name of occupants of the premises, or signs displaying historical building identification information, such as building name or date of construction, provided that the sign is no larger than 2 feet in face area and has no advertising.
(6) One Private Drive Sign per driveway entrance, not exceeding two square feet in sign face

area.
(7) On-premise directional and informational signs, up to two square feet in sign face area that identify the location of any rest room, freight entrance, parking, or the like. These signs may be illuminated in accordance with Section 614 and may have branding. Where freestanding, these signs' height shall not exceed three feet.
(8) “No trespassing”, “no hunting”, “no soliciting” signs, or signs of the like, that do not exceed one sign of five (5) square feet in face area. These limitations shall not apply to the posting of conventional “no trespassing” signs per state law.

Section 903: Prohibitions
(a) The following signs are prohibited:
(1) Signs containing, including, or illuminated by any flashing, intermittent, or moving lights.
(2) Abandoned signs, or abandoned sign structures.
(3) Signs placed on or painted on a motor vehicle, trailer, a building’s wall or façade, or a fence, with the primary purpose of providing signage not otherwise allowed by the BLUO. This provision is not intended to prohibit business logos, identification, or advertising on vehicles primarily and actively used for business purposes and/or personal transportation.
(4) Signs that imitate or resemble official traffic lights, signs, or signals, or signs that interfere with the effectiveness of any official traffic light, sign, or signal.
(5) Mechanically Moving Signs, which is any environmentally activated sign or other display with mechanical motion powered by natural, manual, mechanical, electrical or other means, including but not limited to pennant strings, streamers, spinners, propellers, and searchlights.
(6) Roof Signs, Animated Signs and Inflatable Signs.
(7) Any signs affixed to any natural vegetation, rocks, flagpoles or utility poles, unless the Brandon Selectboard has granted written permission.
(8) Signs that emit smoke, visible vapors, particles, sound, or odor, contain any mirrored device, or do not meet the Outdoor Lighting Requirements in the BLUO.
(9) Signs with more than two sign faces
(10) Signs encroaching on a public right-of-way, path of pedestrian or vehicular travel, or parking space, unless duly authorized by the Town of Brandon Selectboard and the State of Vermont.
(11) Any sign that does not meet all provisions of the BLUO, including this Article.
(12) Off-premise signs and billboards.

Section 904: Standards for All Signs
(a) General: All signs, sign structures, awnings, and temporary signs must be structurally sound and located so that they do not pose a threat to pedestrian or vehicular traffic, and must meet minimum standards to safeguard life, health, property, and public welfare.

(b) Total Allowed Signs: The total allowed number of signs for a business is four signs except as specified in Section 905; this shall not count exempt signs/non-commercial flags but shall include nonconforming and/or abandoned signs, and commercial flags.

(c) Integration with Site and Building Design: All signs shall fit with the architectural character, proportions, materials, colors, lighting and other details of the development. Signs shall not project above the roof, parapet or exterior wall. No sign shall cover architectural details such as, but not limited to, arches, sills, moldings, cornices and transom windows.

(d)Maximum Sign Face Area for All Permanent Signs by Speed Limit:

(1) where 25-34 mph: 24 square feet
(2) where 35-40 mph: 28 square feet
(3) where 41-49 mph: 31 square feet
(4) where 50+ mph: 35 square feet

(e) Sign Lighting and Illumination: All illuminated signs are considered Outdoor Lighting, and thus shall adhere to the BLUO's Outdoor Lighting Standards (see Section 614). Any directed lighting of a sign shall be down-facing, shielded, or hooded to avoid glare to passing traffic or abutting properties. All signs shall be turned off at the end of business hours.

(f) Freestanding Signs (Pole & Monument Signs): All permanent free-standing signs must be self-supporting structures built on and attached to concrete foundations. On any lot with a freestanding ground-level monument sign, whether conforming, nonconforming, or abandoned, no freestanding pole sign is allowed.

(1) Maximum Sign Height for Permanent Freestanding Signs:
(a) All streets except subsection (b) and (c) below: 10 feet
(b) Route 7, Champlain Street, and Forest Dale Road where 35-40 mph speed limit: 12.5 feet
(c) Route 7 and Champlain Street where 50 mph speed limit: 15 feet

(2) Maximum Sign Height Permitted as Conditional Use by Development Review Board for Permanent Freestanding Signs:
(a) where 25-34 mph speed limit: 12.5 feet
(b) where 35-40 mph speed limit: 15 feet
(c) where 41-49 mph speed limit: 20 feet
(d) where 50+ mph speed limit: 25 feet

(g) Signage for Temporary and Seasonal Events: Temporary signs may be displayed one week prior to the first occurrence until one day after the occurrence. Temporary and seasonal event signage must meet the safety requirements in Section 904(a). Signage for temporary and seasonal events held on public property (parks, etc.) shall require an assessment by the Zoning Administrator for sign placement with regard to pedestrian and vehicular traffic safety prior to being placed on park property.

(h) Home Occupations: All home occupation signs shall not exceed 10 square feet in face area. One non-exempt sign per dwelling unit. Other than this subsection, the home occupation sign shall adhere to all other applicable standards as outlined in this Article.

(i) Insurance for Signs Overhanging Right-of-Ways: All wall signs or projecting signs overhanging any Town of Brandon right-of-way shall require liability insurance that names the Town of Brandon as an "additional insured" protecting the Town of Brandon's interest in an amount not less than five thousand dollars ($500,000).

(j) Restaurants and Drive-Thru Restaurants: A restaurant, including drive-thru restaurants, may install a display not more than two square feet in the face area for each entrance or exit. Drive-thru restaurants may install additional signage with a total sign face area of 32 square feet along the approved drive-

through lane (it may be Electronic Message Board, provided it adheres to Section 905 (j)). Either sign may be illuminated provided it adheres to Section 904 (e).

(k) Gas/Fueling Stations: One fuel pricing sign is permitted so long as the sign face area is ten feet or less, and the sign shall only display gas prices in static colors.

(l) Sign Design Recommendations: This section is not required, but provides guidance in the design of signs in the Town of Brandon.

(1) Sign placement should take into account whether pedestrians, motorists or both will view the sign; Signs along roadways, especially ground-level monument signs, should be integrated with site landscaping.
(2) Creatively illustrated signs are encouraged and should be graphic in form, expressive, and distinctive, with a strong visual relationship to the business image.
(3) Signs should be legible and appropriate to the business and its project image, and should employ appropriate contrast between lettering and background. Signs supported by ornamental brackets and oriented to pedestrians are strongly encouraged.
(4) The size of a sign should generally be determined by the function of the sign, with an emphasis on smaller, people-sized signs. For example, shops and restaurants should be smaller, personalized signs; while major destinations and shopping centers should be larger signs so that they can be viewed by a moving car. Signs should use proper letter height, visibility, and typeface for the nature of the street, the speed limit, the brand's image and the specific text.
(5) The Brandon Workbook (2002) individual guidelines for signs (Pages 82-84) provides additional guidance to applicants regarding signing which is in keeping with the image of Brandon and the architectural quality of the Town's buildings: http://townofbrandon.com/wp-content/uploads/2018/02/Brandon-Workbook-2002.pdf

Section 905: Additional Standards for Specific Sign Type

(a) Freestanding Pole Signs One freestanding pole sign is permitted per lot. Freestanding Pole Signs shall not be permitted in the right-of-way, unless the freestanding sign is a shared right-of-way sign (see Section 906(h)). Pole signs, and their associated sign structure, shall be setback at least three feet from the closest edge of the sidewalk, or where sidewalks do not exist, the setback shall be at least seven feet from the closest edge of road pavement.

(b) Freestanding Monument Signs: One ground-mounted monument sign is permitted per lot. These signs shall not be permitted in the right-of-way unless the freestanding sign is a shared right-of-way sign (see Section 906(h)). Monument signs shall be set back at least five (5) feet from the closest edge of sidewalks. Where sidewalks do not exist, the setback shall be at least 12 feet from the closest edge of road pavement. The base of the monument sign shall be solid in appearance and shall be constructed of a permanent material such as concrete block or brick.

(c) Projecting Signs: One projecting sign is permitted per customer entrance, and in no situation shall one sign be located closer than twenty-five (25) feet to another sign. A projecting sign shall not extend farther than five (5) feet away from the building on which it is mounted. The lowest part of a projecting

sign, or the related sign structure, shall be at least eight (8) feet above the sidewalk or grade directly beneath the sign. Projecting signs are not allowed on rooftops or on pitched roofs. Projecting signs shall not extend over a right-of-way unless they are located in the Central Business or Mixed-Use District.

(d) Temporary Sandwich Board Signs: Temporary sandwich board signs are only permitted as Temporary Signs or Seasonal Event Signs, and shall be no larger than two (2) feet by three (3) feet and shall be securely anchored or weighted to prevent shifting in orientation or position.

(e) Awnings and Awning Signs: Awnings and awning signs must: (1) be centered within or over architectural elements such as windows or doors; (2) have the lowest edge of the awning be at least nine feet above the sidewalk or finished grade; and (3) must not project more than five feet from any part of the building. If any awning is mounted on a multi-tenant building, all awnings shall be similar in terms of height, projection, and style across all tenants in the building.

(f) Feather Flags: One feather flag per business. Feather flags shall only be displayed during a business operating hours.

(g) Integrated Commercial Developments: All integrated commercial developments (e.g. multiple tenants or buildings) shall have a uniform sign program or master plan to ensure compatibility throughout the project. The program or master plan shall also identify locations and maximum sizes for future signs.

(h) Shared Right-of-Way Signs: A shared right-of-way sign may be used for a single development site, for example, a business park or residential development, that consists of multiple uses, residences, buildings, or lots sharing a common entrance from the street, at least some of which are not visible from the street. Any sign type typically permitted as a non-shared Right of Way sign, except freestanding pole signs for residential development, are permitted as a Shared Right-of-Way sign.

(i) Freestanding Canopy Signs: Signs affixed or applied in an essentially flat plane to the face of a freestanding canopy, shall not exceed an area equal to forty (40) percent of the height and length of the face area of the canopy. Graphic treatment in the form of striping or patterns shall be permitted on the face of any freestanding canopy and the area of any such graphic treatment shall not be calculated as a component of the permitted copy area.

(j) Electronic Message Boards: Electronic Message Boards are only permitted in the Mixed-Use District, provided it meets all BLUO provisions. Electronic Message Boards, where allowed, shall have automatic dimming controls, either hardwired or via software settings, or light sensors that automatically adjust the brightness of the display as the natural ambient light conditions change, to adhere to Section 904(e). Any use of moving effects, such as scrolling, traveling, flashing, spinning, rotating, fading, or dissolving, and all dynamic frame effects, such as patterns, illusions, or movement is prohibited.

(k) Wall Signs: One wall sign per business.

Section 906: Measuring Sign Face Area, Height of Signs, and Sign Setbacks

(a) Measuring Sign Face Area: Area must be measured to include any of the outermost points of sign copy. Square, rectangular, round and oval-shaped signs are to be measured based on the appropriate

mathematical formula of a square, rectangle, circle or oval. Irregular-shaped signs are to be measured by dividing the sign into smaller regular shapes to determine the area. The area of sign faces enclosed in frames or cabinets is determined based on the outer dimensions of the frame or cabinet. Only one side of a double-sided sign is counted in determining the area of sign face. Where the two sides are not of equal size, the larger of the two sides is used for the determination of sign face area. The area of a sign containing a clearly defined background area shall be calculated based on the area of the smallest standard geometric shape or combination of geometric shapes capable of encompassing the perimeter of the background area of the sign.

(b) Height of Signs: The overall height of a freestanding sign or sign structure is measured from the lowest point of the ground directly below the sign to the highest point of the freestanding sign or sign structure except where a freestanding sign or sign structure is mounted along a roadway that has a higher grade level as compared to the grade level directly below the freestanding sign or sign structure. In this case, the freestanding sign or structure's height will be measured from the roadway grade level to the highest point of the freestanding sign or sign structure. See Figure A.

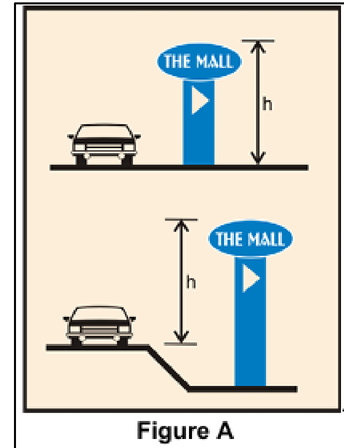


Figure A

(c) Sign Setbacks: The setback of a sign from a lot line shall be measured as the shortest horizontal distance from the lot line to any part of the sign, whether or not such part of the sign is at ground level.

Section 907: Nonconforming Signs

(a) Nonconforming signs that are not temporary signs may continue to exist after the latest amendment of the BLUO until they are moved, enlarged, replaced, redesigned, or altered. However, signs or sign structures otherwise classified as nonconforming signs or sign structures may: (1) be moved, if required to be moved because of public right-of-way improvements; or (2) replace sign panel inserts in a cabinet-style sign.

(b) Nonconforming temporary signs shall be removed and changed in accordance with the amendment of the BLUO no later than three months from the effective date.

(c) The status of a nonconforming sign is not affected by changes in ownership.

(d) Once a sign is altered to conform or is replaced with a conforming sign, the nonconforming rights for that sign are lost and a nonconforming sign may not be re-established.

Section 908: Sign Permit Applications

(a) Applications for sign permits may be made by: (a) The person(s) holding legal title to the property in question, or his/her/their legal representative; or (b) A lessee of the property in question, with the consent of the owner, or his/her/their legal representative; or (c) An optionee, with a binding agreement pending receipt of a zoning permit or other approval, or his/her/their legal representative.

(b) An application for Sign Permit shall be made to the Zoning Administrator electronically, via forms prescribed and provided by the Zoning Administrator, and shall contain the following information:

(1) Name, address, and telephone number of an applicant, and/or the owner of any land, building,

or structure to which, or on which, the sign is to be erected, and who is not the applicant, and/or any person or entity erecting the sign.
(2) Location of building, structure, and/or land to which or upon which the sign is to be erected.
(3) Detailed drawing(s), description(s), or blueprint(s), as applicable, showing: a color sketch of the sign and building, and showing as they would appear and relate to each other; all sign copy (as defined in the BLUO); the method and intensity of illumination for the sign and/or sign structure; all building materials used for construction of the sign and/or sign structure; any extraneous devices; the method of attachment to the buildings or in the ground; an inventory of color photographs of all signs, including exempt or nonconforming signs, currently existing upon the lot; the position of the sign in relation to nearby buildings or structures and adjoining property and to any private or public street or highway.
(4) Written consent of the owner of the building, structure, or land to which, or on which, the sign is to be erected, in the event the applicant is not the owner thereof.
(5) Any other pertinent information as the Zoning Administrator may require to ensure compliance with the BLUO.

(c) An application for Sign Permit, in addition to providing the information outlined in Section 908(b), shall be accompanied by the appropriate permit fee, as determined by the Brandon Selectboard and found in the Town of Brandon Fee Schedule, as well as attesting in the application that the applicant has insurance in the appropriate amount with the Town of Brandon as additional named insured for applicants where Section 904(i) is applicable.

Section 909: Sign Administrative Responsibilities & Approval/Denial of Sign Applications

(a) Upon receipt of a Sign Permit Application, the Zoning Administrator shall:
(1) Determine if the proposed sign is in accordance with the provisions of the BLUO; (2) Determine if the application is complete. An application for a sign permit shall not be considered complete unless all applicable permit fees have been paid; (3) Determine, by consulting the Official Zoning Map, the zoning district in which the property in question is located; (4) Conduct a site visit, where needed, to make a decision on the application.

(b) The Zoning Administrator shall grant a permit within 30 days of receipt completed application for any sign that conforms to the provisions of the BLUO; provide the applicant with the necessary public notification poster; deliver a copy of the permit within three days to the Listers and to all adjoining landowners; and post a copy of the permit within three days in at least one public place in the Town of Brandon for fifteen days.

(c) The Zoning Administrator shall deny a permit within thirty days of receipt completed application for any sign that does not conform with the BLUO and shall provide the applicant the following information: a statement that the permit has been denied; a statement of the specific reasons for the denial; and a statement of what course the applicant may take to appeal the decision.
(1) An application who has been denied a permit may appeal to the DRB, see Section 1110.

(d) Upon receipt of notice from an applicant who believes they qualify for a sign exemption, the Zoning Administrator shall review the specific exemption-related provisions of this Article outlined by the applicant; and provides the applicant, within thirty days, written confirmation, or denial of this exemption. If an applicant is denied an exemption, the Zoning Administrator, in writing, shall outline the reason for

the denial, and provide the applicant with the prescribed forms for applying for a permit.

(e) Where a sign is in violation of this Article, the Zoning Administrator shall provide written notice to the owner, person, or firm responsible for maintaining the sign, identifying the actions that need to be taken to remedy the violation and informing the applicant they have forty-five (45) days from the date of written notice to take these actions. Any persons, principles, agents, corporations, or entity violating the provisions of this Article, following the forty-five day period, shall be fined Fifty Dollars ($50.00) per day for each offense. An "offense" shall be deemed committed on each day in which the violation continues after notification of the violation by the Town of Brandon.

Article X. Wireless Telecommunication Facilities

Section 1001. Authority and Purpose

(a) Pursuant to 24V.S.A. §4414(12), the Development Review Board shall have the authority to regulate construction, alteration, and development, decommissioning and dismantling of Wireless Telecommunication Facilities in the Town of Brandon.

(b) The purpose of this Article is to promote the public health, safety, welfare, and convenience of the residents of the Town of Brandon, while accommodating the telecommunication needs of the Town's residents.

Section 1002. Consistency with Federal and State Law; Severability

This Article is intended to be consistent with the Telecommunications Act of 1996 and Title 24, Chapter 117 of Vermont Statutes Annotated. If any section of this Article is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this Article.

Section 1003. Permit Required; Exemptions

(a) Wireless Telecommunication Facilities may be permitted as conditional uses upon compliance with the provisions of this bylaw in all zoning districts. No installation or construction of, or significant addition or modification to, any Wireless Telecommunication Facility shall commence until a permit has been issued by the Development Review Board.

(b) No permit shall be required for a Wireless Telecommunication Facility that is used exclusively for municipal radio dispatch service or emergency radio dispatch service and which does not exceed 50 feet in elevation.

(c) This bylaw shall not apply to amateur radio, citizens band radio, AM or FM radio, or broadcast television service.

Section 1004. Permit Application Requirements

(a) In addition to information otherwise required in the Town of Brandon's Land Use Ordinance, applicants shall include the following supplemental information:

(1) The applicant's legal name, address and telephone number. If the applicant is not a natural

person, the applicant shall provide the state in which it is incorporated and the name and address of its resident agent.
(2) The name, title, address and telephone number of the person to whom correspondence concerning the application should be sent.
(3) The name, address and telephone number of the owner or lessee of the property on which the Wireless Telecommunication Facility will be located.
(4) The names and addresses of all adjoining property owners. Adjoining property owners shall be determined without regard to any public right-of-way.
(5) A vicinity map showing the entire vicinity within a 1,000-foot radius of the Facility, including the location of any tower, topography, public and private roads and driveways, buildings and structures, utilities, water bodies, wetlands, landscape features, historic sites and necessary wildlife habitats. It shall indicate the property lines of the proposed Facility site parcel and all easements or rights of way needed for access from a public way to the Facility.
(6) The location of the Facility on a USGS Topographic Map or a GIS-generated map compatible with Vermont Center for Geographic Information (VCGI) standards and encompassing the area within at least a two-mile radius of the proposed tower site.
(7) Elevations and proposed site plans of the Facility showing all facades and indicating all exterior materials and colors of towers, buildings and equipment, as well as all landscaping, utility wires, guy wires and screening. (All plans shall be drawn at a minimum scale of 1 inch = 50 feet).
(8) In the case of a site that is forested, the approximate average elevation of the existing vegetation within 50 feet of any tower base.
(9) Construction sequence and time schedule for completion of each phase of the entire project.
(10) A report from a qualified engineer that:

- (A) Describes any tower's design and elevation,
- (B) Documents the elevation above grade for all proposed mounting positions for antennas to be collocated on a tower and the minimum distances between antennas,
- (C) Describes a tower's capacity, including the number, elevation and types of antennas that the tower is proposed to accommodate.
- (D) In the case of new Facilities, demonstrates that existing towers and structures within 5 miles of the site cannot reasonably be modified to provide adequate coverage and adequate capacity to the community.
- (E) Describes potential changes or additions to existing structures or towers that would enable them to provide adequate coverage.
- (F) Describes the output frequency, number of channels and the power output per channel for each antenna. In the alternative, a coverage map may be provided.
- (G) Demonstrates the Facility's compliance with the standards set forth in this bylaw or other applicable standards.
- (H) Provides proof that at the proposed facility site the applicant will be in compliance with all FCC regulations, standards and requirements, and includes a statement that the applicant commits to continue to maintain compliance with all FCC regulations, standards and requirements for radio frequency radiation (RFR).
- (I) Includes such other information as determined by the Development Review Board to evaluate the application.

(11) A letter of intent committing the Facility owner and its successors to permit shared use of any tower if the additional users agree to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC regulations, standards and requirements and the

provisions of this Bylaw and all other applicable laws.
(12) In the case of an application for additional antennas or other equipment to be installed on an existing Facility, a copy of the executed contract with the owner of the existing structure.
(13) To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the Facility, or a written statement by the applicant that an EA is not required is not required for the facility.

Section 1005. Independent Consultants

Upon submission of an application for a Wireless Telecommunication Facility permit, the Development Review Board may retain independent consultants whose services shall be paid for by the applicant. These consultants shall be qualified professionals in telecommunications engineering, structural engineering, monitoring of electromagnetic fields and such other fields as determined by the Development Review Board. The consultant(s) shall work at the Development Review Board's direction and shall provide the Development Review Board such reports and assistance, as the Development Review Board deems necessary to review an application.

Section 1006. Balloon Test

The Development Review Board may require the applicant to fly a four-foot diameter brightly colored balloon at the location and maximum elevation of any proposed tower. If a balloon test is required, the applicant shall advertise the date, time, and location of this balloon test at 7 days in advance of the test in a newspaper with a general circulation in the Town. The applicant shall also inform the Development Review Board, in writing, of the date, time and location of the test, at least 15 days in advance of the test.

The balloon shall be flown for at least eight consecutive daylight hours on two days. If visibility and weather conditions are inadequate for observers to be able to clearly see the balloon test, further tests may be required by the Development Review Board.

Section 1007. Criteria for Approval and Conditions

(a) An application for a Wireless Telecommunication Facility permit shall be approved after a hearing when the Development Review Board finds all the following criteria have been met:
(1) The Facility will not be built on speculation. If the applicant is not a Wireless Telecommunication Service Provider, the Development Review Board may require the applicant to provide a copy of a contract or letter of intent showing that a Wireless Telecommunication Service Provider is legally obligated to locate a Wireless Telecommunication Facility on lands owned or leased by the applicant.
(2) The Facility will not project more than 20 feet above the average elevation of the tree line measured within 50 feet of the highest vertical element of the Wireless Telecommunication Facility, unless the proposed elevation is reasonably necessary to provide adequate Wireless Telecommunication Service capacity or coverage or to facilitate collocation of facilities.
(3) The minimum distance from the base of any tower to any property line is not less than 100 % the total elevation of the tower, including antenna or equipment, plus an additional fifteen

feet.

(4) The Facility will not be illuminated by artificial means and will not display any lights or signs except for such lights and signs as required by Federal Aviation Administration, federal or state law, or this bylaw.

(5) The applicant will remove the Facility, should the Facility be abandoned or cease to operate. The Development Review Board may require the applicant to provide a bond, or other form of financial guarantee acceptable to the Development Review Board to cover the cost of removal of the Facility, should the Facility be abandoned or cease to operate.

(6) The applicant demonstrates that the facility will be in compliance with all FCC standards and requirements regarding radio frequency radiation.

(7) The applicant will maintain adequate insurance on the Facility.

(8) The Facility will be properly identified with appropriate warnings indicating the presence of radio frequency radiation. The Development Review Board may condition a permit on the provision of appropriate fencing.

(9) The proposed equipment cannot be reasonably collocated at an existing Wireless Telecommunication Facility. In determining whether the proposed equipment cannot be reasonably collocated at an existing facility, the Development Review Board shall consider the following factors:

- (A) The proposed equipment would exceed the structural or spatial capacity of the existing facility and the existing facility cannot be reinforced, modified or replaced to accommodate planned equipment at a reasonable cost.
- (B) The proposed equipment would materially impact the usefulness of other equipment at the existing facility and such impact cannot be mitigated or prevented at a reasonable cost.
- (C) The proposed equipment, alone or together with existing equipment, would create radio frequency interference and/or radio frequency radiation in violation of federal standards.
- (D) Existing towers and structures cannot accommodate the proposed equipment at an elevation necessary to function reasonably or are too far from the area of needed coverage to function adequately.
- (E) Collocation of the equipment upon an existing tower would cause an undue aesthetic impact.

(10) The Facility provides reasonable opportunity for collocation of other equipment.

(11) The Facility will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.

(12) The Facility will not have an undue adverse aesthetic impact. In determining whether a facility has an undue adverse aesthetic impact, the Development Review Board shall consider the following factors:

- (A) The results of the balloon test, if conducted.
- (B) The extent to which the proposed towers and equipment have been designed to blend into the surrounding environment through the use of screening, camouflage, architectural design, and/or imitation of natural features.
- (C) The extent to which access roads have been designed to follow the contour of the land and will be constructed within forest or forest fringe areas and not open fields.
- (D) The duration and frequency with which the Facility will be viewed on a public highway or from public property.
- (E) The degree to which the Facility will be screened by existing vegetation, topography, or existing structures.
- (F) Background features in the line of sight to the Facility that obscure or make the Facility

more conspicuous.
(G) The distance of the Facility from the point of view and the proportion of the facility that is above the skyline.
(H) The sensitivity or unique value of a particular view affected by the Facility.
(I) Any significant disruption of a viewshed that provides context to an important historic or scenic resource.

(13) The Facility will not destroy or significantly imperil necessary wildlife habitat or that all reasonable means of minimizing the destruction or imperilment of such habitat or species will be utilized.
(14) The Facility will not generate undue noise.

Section 1008. Continuing Obligations for Wireless Telecommunications Facilities

The owner of a Wireless Telecommunication Facility shall, at such times as requested by the Development Review Board, file a certificate showing that it is in compliance with all FCC standards and requirements regarding radio frequency radiation, and that adequate insurance has been obtained for the Facility. Failure to file a certificate within the timeframe requested by the Development Review Board, shall mean that the Facility has been abandoned.

Section 1009. Removal of Abandoned or Unused Facilities

(a) Unless otherwise approved by the Development Review Board, an abandoned or unused Wireless Telecommunication Facility shall be removed within 90 days of abandonment or cessation of use. If the Facility is not removed within 90 days of abandonment or cessation of use, the Development Review Board may cause the Facility to be removed. The costs of removal shall be assessed against the Facility owner.

(b) Unused portions of a Wireless Telecommunication Facility shall be removed within 180 days of the time that such portion is no longer used. Replacement of portions of a Facility previously removed shall require a new permit, pursuant to Section 1003.

Article XI. Administration

Section 1100. Purpose

(a) This Article sets forth the procedures required for obtaining zoning permits in addition to other requirements that pertain to specific permits set forth within the BLUO. The powers and duties of the

following officers and boards are specified as far as the administration of the BLUO is concerned: the Zoning Administrator, the Acting Zoning Administrator, and the Development Review Board. Appeals and violations procedures are enumerated.

Section 1101. The Zoning Administrator

(a) The Zoning Administrator is nominated by the Planning Commission and appointed by the Selectboard for a term of three years.

(b) The Zoning Administrator shall:

(1) Provide applicants with the forms required to obtain any municipal permit or other municipal authorization required under 24 V.S.A. Chapter 117 or under other laws or ordinances that relate to the regulation by municipalities of land development; and perform other duties as specified in 24 V.S.A. 4448 (c).

(2) Aid applicants in properly completing required forms.

(3) Receive all applications and fees for zoning permits.

(4) Verify, through site visits as required, the representations submitted by applicants on applications for a zoning permit.

(5) Issue or deny permits within 30 days of the receipt of the completed application, if the proposal is within his authority.

(6) Maintain a file of intended approved project completion dates and inspect all approved projects during construction and upon completion to ensure compliance with the provisions of the BLUO.

(7) Refer the applicant to the responsible review and approval body, if the application is not within the authority of the Zoning Administrator.

(8) Post within three days of issuance a copy of all zoning permits granted and official decisions rendered in at least one public place for 15 days from the date of issue.

(9) Within three days of the issuance of a zoning permit or official determination, transmit to the Planning Commission and to the Listers a copy of same; and mail to adjoining landowners notice of approved applications and determinations.

(10) If the application has been approved, deliver to the applicant a copy of an official notice of permit that the applicant must post within view from the public right-of-way most nearly adjacent to the subject property until the time for appeal in 24 V.S.A. §4465 has passed.

(11) Conduct inspections of buildings, and the use of land or structures to determine compliance with the terms of the BLUO and the representations of previously issued zoning permits.

(12) Issue notices of zoning violations and institute in the name of the Town of Brandon, appropriate proceedings to prevent, restrain, correct, or abate violations of the BLUO.

(13) Maintain current records of the BLUO, amendments, the Zoning Map, all building and occupancy permits, inspections, violations, variances, waivers, pending appeals, and correspondence.

(14) Receive from the Development Review Board its decision and conditions on all matters within its authority and issue permits consistent with the decision and conditions.

(15) Provide a monthly report to all members of the Planning Commission summarizing all zoning activity during the previous month.

Section 1102. Acting Zoning Administrator

As provided in 24 V.S.A. 4448(b), the Planning Commission may nominate and the Selectboard may appoint an Acting Zoning Administrator, who shall have the same duties and responsibilities as the Zoning Administrator when the Zoning Administrator has a conflict of interest in any proceeding or decision, or when his absence would compromise the ability of the Town to meet required deadlines stipulated elsewhere in the BLUO or in Vermont Statute.

Section 1103. Zoning Permits

(a) The Zoning Administrator shall, after determining that a permit application is complete, take action on any pending zoning permit application within 30 days of receipt of a complete application by approving the application and issuing a permit, denying the application, or referring the application to the Development Review Board for consideration as specified in the BLUO or applicable state statute.

(b) When an amendment to the BLUO is pending that would affect an application under consideration, the provisions of 24 V.S.A. 4449(d) shall be followed by the authority empowered to determine whether the application shall be approved or denied.

(c) Evidence of an approved zoning permit shall be provided to the applicant by the Zoning Administrator. This evidence must be publicly displayed at the project site for 30 days after the issuance of the permit, or until the project is completed, whichever is longer.

(d) A zoning permit shall not be effective until 15 days after the date of issuance and, where applicable, shall not be effective until all required state permits are approved. This delay allows interested parties to appeal any decisions made. If an appeal is actually taken by an interested party, the permit is not effective until the final adjudication of the appeal.

(e) All land development permits, except for subdivision permits, shall expire two years from the date of final approval unless substantial progress has been made in completing the approved project.

Section 1104. Proper Applicant

(a) Applications for zoning permits may be made by:

(1) The person(s) holding legal title to the property in question, or his legal representative; or

(2) A lessee of the property in question, with the consent of the owner, or his legal representative; or

(3) An optionee, with a binding agreement pending receipt of a zoning permit or other approval, or his legal representative.

Section 1105. Content of Zoning Applications

(a) A zoning application shall not be considered complete unless all applicable fees have been paid and it contains all of the following information:

(1) The name(s) and address(es) of the applicant(s) and the name and address of the owner, if different from the applicant.

(2) The location of the property in question, and the parcel number of the property on the Town of Brandon Property Map.

(3) A sketch or plan of the property in question, including

(A) The size of the lot in acres or square feet.

(B) The shape, size, height, and location of any proposed construction in relation to all property street or road lines, or any structure on the lot.

(C) The location of current and proposed driveways, parking areas, utility lines, leach fields, wells, and underground hazardous materials and waste storage tanks.

(4) A clear and detailed description of both the current and proposed uses.

(5) If the proposal would require the use of delivery vehicles, a statement of the types of vehicles that will be servicing the use, the number of trips per month projected for such vehicles by season, the projected maximum loaded and unloaded weights of such vehicles, and the routes that such vehicles will follow in going to and from the site.

(6) A statement of the impact of the project, as perceived by the applicant, regarding the applicable criteria in Article VI.

(7) The intended completion date for the project if it receives all necessary approvals.

(8) Signed certification by the applicant(s) that the information provided on the application is correct to the best of his knowledge and that the Zoning Administrator may inspect the project property, with reasonable notice, to verify the stipulations made in the application, and that construction is proceeding and has been completed in accordance with the terms under which the

permit was issued.

(b) In addition to the information required in Subsection (a) above, the following additional information shall be required in the special situations listed below:

(1) If the application is for a Subdivision, see Article VII.

(2) If access to the lot is provided by easement or right of way, the applicant shall provide a copy of the formal easement or right of way agreement.

(3) If a variance or waiver is required, the applicant shall provide detailed information on the criteria to be considered by the Development Review Board in evaluating the request for a variance. See Section 1111 and Section 1116.

(4) If the property is located in a hazard area, see Article VIII.

(5) If the use is listed as conditional within the district in which it is proposed to be located, see Section 1112.

(6) If the application is for a Sign, see Article IX.

Section 1106. Procedures to be Followed by the Zoning Administrator Upon Receipt of Zoning Applications

(a) If the action is within the authority of the Zoning Administrator, they:

(1) Shall determine if the proposed use or structure is a primary or accessory use or structure in accordance with the provisions of the BLUO.

(2) Shall determine the proper use category into which the project best fits by consulting the category descriptions in Article II of the BLUO.

(3) Shall determine if the project is located in a hazard area. Such projects shall be considered to be in hazard areas only if there will be any construction or grading within hazard areas. If a lot extends into a hazard area, but no grading or construction will be done within it, the project shall not be considered subject to the provisions of Article VIII of the BLUO.

(4) Shall determine, by consulting the Official Zoning Map, the Zoning in which the property in question is located.

(5) Shall evaluate the impact of the proposal with respect to the provisions of Article VI and all other applicable provisions of the BLUO.

(6) May at his discretion conduct a site visit prior to making a decision on the application.

(7) If the project conforms to the provisions of the BLUO, the Zoning Administrator shall within 30 days of the receipt of the completed application issue a permit to the applicant, and provide

the applicant with the necessary public notification poster, and deliver a copy of the permit within three days to the Listers and to all adjoining landowners, and post a copy of the permit within three days in at least one public place in the Town of Brandon for 15 days.

(8) If the project does not conform to the provisions of the BLUO, the Zoning Administrator shall deny the permit within 30 days of the receipt of the completed application and provide the following information to the applicant:

(A) A statement that the permit has been denied;

(B) A statement of the specific reasons for the denial, and

(C) A statement of what course the applicant may take to appeal the decision.

(b) If the application is not within the authority of the Zoning Administrator to make a final determination, they shall transmit the completed application to the appropriate board or commission for review and decision, and give notice that they have done so to the applicant.

Section 1107. Post-Completion Site Visits and Certificate of Occupancy

(a) A Certificate of Occupancy is required for new construction, renovation, or change of use that is subject to the provisions of the BLUO. All of the requirements and conditions contained in any development approval process that are not met shall be met before the issuance of any Certificate of Occupancy.

(b) In accordance with 24 V.S.A. § 4449, it shall be unlawful to use or occupy, or permit the use or occupancy of any land or structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure within the areas affected by this bylaw, until a certificate of occupancy is issued by the Zoning Administrator stating that the proposed use of the structure or land conforms to the requirements of this bylaw.

(c) A certificate of occupancy is not required for structures that were built in compliance with the bylaws at the time of construction and have not been improved since the adoption of this bylaw.

(d) Upon receipt of the application for a certificate of occupancy, the Zoning Administrator shall review the permit conditions and inspect the premises to ensure that:
    i. any required state and federal permits that have been received, and
    ii. all work has been completed in conformance with the zoning permit and associated approvals.

(e) If the Zoning Administrator fails to grant or deny the certificate of occupancy within 29 days of the submission of the application, the certificate shall be deemed issued on the 30th day. If a certificate of occupancy cannot be issued, notice will be sent to the owner and copied to the lender.

The Zoning Administrator shall visit the site of all approved projects after the project has been completed and document in the file the date of his visit and any appropriate findings.

Section 1108. Procedures for Handling Zoning Permits When the Zoning Administrator Has a Conflict of Interest

When the Zoning Administrator has any actual or perceived conflict of interest with respect to a project that requires a zoning permit, he shall, immediately upon receipt, transfer the application to the Acting Zoning Administrator for analysis and decision.

Section 1109. Powers of the Development Review Board

(a) The Selectboard shall determine the number and terms of office of members of the Development Review Board, and appoint, fill vacancies, and remove the members in accordance with 24 V.S.A. § 4460.

(b) The Development Review Board shall have the following powers with respect to the administration of the BLUO:

(1) To hear and decide appeals to any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement or implementation of the BLUO.

(2) To authorize variances.

(3) To authorize conditional uses.

(4) To authorize waivers.

(5) To authorize enlargements of nonconforming uses.

(6) To authorize the nonconforming replacement of a totally destroyed nonconforming structure.

(7) To authorize the location of dwelling units within the Central Business District.

(8) To hear all other matters specified in these bylaws or provided by 24 V.S.A. §4460(e).

(9) To determine the likelihood of undue adverse aesthetic impacts for any purposes specified in the BLUO, including for determining the proper use category into which the project best fits by consulting the category descriptions in Article II of the BLUO.

(10) To authorize an exemption for projects of a ‘similar minor impact’ as outlined in Section 106(c) of the BLUO.

(11) To review and make a decision on any subdivision application that fails the test in Section 701 (1).

(12) To review and make a decision on the construction, alteration, development, decommissioning, and dismantling of Wireless Telecommunication Facilities regulated in Article X.

(c) In exercising the powers listed above, the Development Review Board may not without good and sufficient reason deny a permit, but it may impose appropriate conditions to ensure compliance with the provisions of the BLUO and the Comprehensive Town Plan.

(d) A decision rendered by the Development Review Board for a housing development or the housing portion of a mixed-use development shall adhere to 24 V.S.A. § 4464(b)(7).

(e) Authority to conduct Local Act 250 Reviews

(1) In accordance with 24 V.S.A. 4420, the Development Review Board is hereby authorized to undertake local Act 250 review of municipal impacts caused by a "development" and/or "subdivision," as such terms are defined in 10 V.S.A. Chapter 151.

(2) With respect to such "developments" and/or "subdivisions", the Development Review Board, pursuant to the procedures established under 24 V.S.A. Chapter 36 (the Municipal Administrative Procedures Act), shall hear applications for local Act 250 review of municipal impacts at a duly warned public hearing.

(3) All applicants for Act 250 permits for such "developments" and/or "subdivisions" located within the Town of Brandon shall go through this review process, unless all of the following apply:

(A) The applicant can establish to the satisfaction of the Development Review Board that the applicant relied on a determination by the Natural Resource Board's local district coordinator that Act 250 jurisdiction did not apply to the development and/or subdivision in question and, based upon that reliance, the applicant obtained local permits without complying with the requirement for local Act 250 review.

(B) The Natural Resource Board's local district coordinator's jurisdictional ruling was later reconsidered or overturned on appeal, with the result that Act 250 jurisdiction does apply to the "development" and/or "subdivision" in question.

(C) The Development Review Board waives its local Act 250 review jurisdiction in the interest of fairness to the applicant.

(4) Determinations by the Development Review Board regarding whether or not to waive its local Act 250 review jurisdiction shall not be subject to review.

(5) At the Development Review Board's local Act 250 review proceedings, the applicant shall provide, at the minimum, all of the information relating to Act 250 Criteria 6, 7, and 10 requested in the Act 250 Application Forms and demonstrate to the satisfaction of the Development Review Board that the proposed "development" and/or "subdivision":

(A) Will not cause an unreasonable burden on the ability of the municipality to provide educational services (Act 250 Criterion 6).

(B) Will not cause an unreasonable burden on the ability of the municipality to provide municipal or governmental services (Act 250 Criterion 7).

(C) Is in conformance with the duly adopted Town (Act 250 Criterion 10).

(6) The Development Review Board may, after prior notice to the applicants, hire qualified persons to conduct an independent technical review of any application and require the applicant to pay for all reasonable costs thereof.
(f) In accordance with the exemptions in 10 V.S.A. Chapter 151, as applicable, the Development Review Board shall not perform local Act 250 review, nor shall any permit or permit amendment be required for certain residential uses.

Section 1110. Appeals

(a) Any interested person, as defined in 24 V.S.A. §4465(b), may appeal any order, requirement, decision, or determination made by the Zoning Administrator by filing within 15 days of said act proper notice of appeal with:

(1) The Zoning Administrator, and

(2) The Secretary of the Development Review Board, or the Brandon Town Clerk, if the Development Review Board has elected no Secretary.

(b) The notice of appeal shall be in writing and shall include:

(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 the regulatory provision(s) applicable to the appeal.

(4) The alleged grounds why the requested relief is believed proper under the circumstances.

(5) The payment of all required application fees.

(c) The Development Review Board shall hold all public hearings on the appeal in conformity with the provisions of 24 V.S.A. §4461 and §4468.

(d) Testimony at the public hearing shall be limited to the specific issues raised by the appellant in his notice of appeal.

(e) Within 45 days of the conclusion of the hearing, the Development Review Board shall:

(1) Issue findings of fact based on evidence presented at the public hearing.

(2) Render a decision based on these findings of fact.

(3) Mail a copy of the decision by certified mail to the appellant.

(4) Mail copies of the decision to every person or body testifying at the hearing.

(5) File a copy of the decision with the Brandon Town Clerk for inclusion in the public records

of the Town.

(6) File a copy of the decision with the Zoning Administrator, who shall take action consistent with the decision rendered by the Development Review Board.

(d) Whenever the DRB does not grant a conditional use permit or a variance request on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective DRB at a later time unless in accordance with 24 V.S.A. § 4470. The applicant shall clearly demonstrate that: Circumstances affecting the property that is the subject of the application have substantially changed, new information is available that could not with reasonable diligence have been presented at a previous hearing. A request to be heard on this basis shall be filed with the ZA within the time period for an appeal. However, such a request does not extend the period within which an appeal shall be taken. Appeals from any decision or act of the DRB in connection with this bylaw shall be made to the Vermont Superior Court, Environmental Division as provided for in 24 V.S.A. § 4471.

Section 1111. Variances

(a) Any person, as defined in Section 1104, may request that the Development Review Board issue a variance from the provisions of the BLUO for a structure that is not primarily a renewable energy resource structure. If occasioned by the denial of a zoning permit by the Zoning Administrator, the appeal must be taken within 15 days of the denial.

(b) The notice or request shall be filed with the Zoning Administrator and the Secretary of the Development Review Board, or the Brandon Town Clerk, if the Development Review Board has elected no Secretary.

(c) Notice of a request for a variance shall be in writing and shall include detailed information on the proposal and the criteria to be considered by the Development Review Board in evaluating the request.

(d) The Development Review Board shall hold a public hearing on the request for a variance within 60 days of the receipt of the request. Notice to the public shall be given in accordance with the provisions of 24 V.S.A. 4468, and a copy of the hearing notice shall be mailed to the appellant at least 15 days prior to the public hearing.

(e) The Development Review Board shall grant a variance if all of the following facts are found by the Board:

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

(2) Because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the land use Ordinance and that the authorization of the variance is therefore necessary to enable the reasonable use of the

property;

(3) The unnecessary physical hardship has not been created by the appellant;

(4) The variance, if authorized, will not substantially alter the character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor 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 modification possible of the Land Use Ordinance.

(f) Notwithstanding the provisions of Section 1111 (e), the Development Review Board may grant a hardship or dimensional variance for a structure that is primarily a renewable energy resource structure that could not otherwise be developed or function effectively if required to conform to the provisions of Sections 301 through 305. To grant such a variance, the Development Review Board must establish for the record all of the following facts:

(1) It is unusually difficult or unduly expensive to build the renewable energy resource structure in conformance with the land use regulations.

(2) The hardship was not created by the applicant/appellant.

(3) The variance, if authorized, will not alter the character of the neighborhood, impair the use of adjacent properties, reduce access to other renewable energy resources, or be detrimental to the public welfare.

(4) The variance, if authorized, will represent the minimum that will afford relief.

(g) Within 45 days of the conclusion of the hearing, the Development Review Board shall:

(1) Issue findings of fact based on evidence presented at the public hearing.

(2) Render a decision based on these findings of fact.

(3) Mail a copy of the decision by certified mail to the applicant and/or appellant.

(4) Mail copies of the decision to every person or body testifying at the hearing.

(5) File a copy of the decision with the Brandon Town Clerk for inclusion in the public records of the Town.

(6) File a copy of the decision with the Zoning Administrator, who shall take action consistent with the decision rendered by the Development Review Board.

Section 1112. Conditional Uses

(a) When any use is listed as conditional within a given district, the application for a zoning permit may be approved only by the Development Review Board, which, in granting the permit, may add appropriate and reasonable conditions to ensure compliance with the provisions of the BLUO, provided that such conditions are part of the public hearing record.

(b) In considering its action, the Development Review Board shall make findings that the proposed conditional use does not result in an undue adverse effect on:

(1) The capacity of existing or planned community facilities.

(2) The character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan.

(3) Traffic on roads and highways in the vicinity.

(4) Bylaws and ordinances in effect at the time of the application, including other applicable provisions of the BLUO.

(5) Utilization of renewable energy resources.

(6) The review criteria found in 10 V.S.A. §6086, provided that the project is not subject to Act 250 review.

(c) The Development Review Board shall hold a public hearing on the application within 120 days of the receipt of a complete application. Notice to the public shall be given in accordance with the provisions of 24 V.S.A. §4468, and a copy of the hearing notice shall be mailed to the appellant at least 15 days prior to the public hearing.

(d) Within 45 days of the conclusion of the hearing, the Development Review Board shall:

(1) Issue findings of fact based on evidence presented at the public hearing.

(2) Render a decision based on these findings of fact.

(3) Mail a copy of the decision to every person or body testifying at the hearing.

(4) Mail a copy of the decision by certified mail to the applicant.

(5) File a copy of the decision with the Brandon Town Clerk for inclusion in the public records of the Town.

(6) File a copy of the decision with the Zoning Administrator, who shall take action consistent with the decision rendered by the Development Review Board.

(e) In exercising its power to approve conditional uses, the Development Review Board may impose appropriate and reasonable conditions to ensure compliance with the provisions of the BLUO, provided

that such conditions are part of the public hearing record.

Section 1113. Dwelling Units within the Central Business District

(a) The Zoning Administrator or Development Review Board shall not approve an application for dwelling units within the Central Business District unless it finds, in addition to the criteria in Section 1112(b) above, that:

(1) The developer has made provision for sufficient off-street parking within one-quarter mile walking distance from the use to accommodate all tenant and guest vehicles. In the absence of evidence presented by the developer and acceptable to the Development Review Board that a lower ratio would be more appropriate to the nature of the project, one parking space shall be required for each dwelling unit.

(2) All lease agreements shall include the provision that neither tenants nor their guests may park on Route 7 and the parking lot between 2 Park Street and 23 Park Street.

(3) The project will be compatible with the retail/commercial nature of the Central Business District, and storefronts will be maintained.

(4) The effect of the project, when viewed in the context of the housing development throughout the town, is consistent with the housing goals and objectives articulated in the Town Plan.

(b) In its decision, the Zoning Administrator or Development Review Boards shall describe how the project meets subsection (a) in detail and require that any change in the project as approved must be approved by the Development Review Board prior to implementation.

Section 1114. Enforcement

(a) The Zoning Administrator shall institute in the name of the Town any appropriate action, injunction, or other proceeding to prevent, restrain, correct, or abate a violation of the BLUO. A violation of the BLUO may be enforced as provided in 24 V.S.A. §4451 or as provided in 24 V.S.A. §1974a.

(b) Enforcement Pursuant to 24 V.S.A. §4451

(1) Any person who violates any provision of the BLUO shall be subject to the maximum fine enumerated in 24 V.S.A. §4451(a) for each offense. Each day a violation is continued shall constitute a separate offense. Each lot transferred, sold, agreed or included in a contract to be sold without complying with the provisions of the BLUO shall be considered a separate violation.

(2) No action shall be brought under this Section unless the alleged offender has had at least seven days' warning notice by certified mail. An action may be brought without the seven-day notice and an opportunity to cure if the alleged offender repeats the violation of the Ordinance after the seven-day notice period and within the next succeeding 12 months. The seven-day warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. In default of payment of

the fine, such person, the members of any partnership, or the principal officers of such corporation shall each pay double the amount of such fine. Each day that a violation is continued shall constitute a separate offense.

(3) The Zoning Administrator may institute, in the name of the Town of Brandon, pursuant to 24 V.S.A.§§4451 and 4452, any appropriate action, injunction or other proceeding to prevent, restrain, correct or abate any violation of the BLUO.

(4) All fines collected for the violation of the BLUO under this Section shall be paid over to the Town of Brandon.

(c) Enforcement Pursuant to 24 V.S.A. §1974a

(1) A violation of the BLUO may also be enforced in the judicial bureau as a civil matter in accordance with the provisions of 24 V.S.A. §1974a. A civil penalty of not more than $100 per violation may be imposed for violation of the BLUO. Each day that the violation continues shall constitute a separate violation of the BLUO.

(2) Any cumulative penalties shall not exceed $500. If the violation continues and cumulative penalties would exceed $500 or if injunctive relief is sought other than a cease-and-desist order as provided in 24 V.S.A. §1974a, the action shall be brought in Superior Court.

(3) No action shall be brought under this Section unless the alleged offender has had at least seven days' warning notice by certified mail. The alleged offender will not be entitled to an additional warning notice for the same violation occurring after the seven-day period within the next succeeding 12 months.

(4) If the alleged offender fails to cure the violation as set forth in the warning notice, a complaint (municipal ticket) may be issued pursuant to 24 V.S.A. §1977. An original copy thereof shall be filed with the judicial bureau, a copy shall be retained by the issuing municipal official and two copies shall be given to the alleged offender.

(5) Pursuant to 24 V.S.A. §1979, the Town Zoning Administrator, Health Officer and/or Brandon Police Officers are designated as the enforcement officers. Said designees shall issue tickets and may be the appearing officer(s) at any hearing.

(6) The Waiver Fee shall be set at $50 for the first offense, $75 for the second offense (within a one-year period) and $100 for each subsequent offense within a one-year period. Each day that a violation continues shall constitute a separate violation of the BLUO.

Section 1115. Burden of Proof

It shall be the responsibility of the applicant or appellant to provide all relevant information to enable the Zoning Administrator or the Development Review Board to make an informed decision in any matter or proceeding before the Zoning Administrator or the Development Review Board.

Section 1116. Setback Waivers

(a) Purpose: The intent of this section is to provide flexibility in setback requirements for the placement of primary and accessory structures in all zoning districts while maintaining the character of the area.

(b) Allowable Waivers: One of the following conditions must exist in order for a waiver to be considered, providing that a minimum setback of 5' is maintained. Waivers do not apply to setbacks from surface waters, which must meet provisions set forth in Article VIII of these regulations. Such waivers may be granted for new and complying existing structures by the Development Review Board following a public hearing.

(1) When the resulting setback is no greater than the front or side setbacks for existing structures on adjacent lots on the same street frontage.
(2) For greater preservation of open land/agricultural land or scenic vistas.
(3) For greater preservation of other natural resources, such as, but not limited to surface waters, wetlands, or steep slopes.
(4) The waiver, if authorized, will represent the minimum necessary to achieve the stated purpose of this Section.

(c) Application Procedures: Applications for a waiver shall be submitted to the Zoning Administrator and the Secretary of the Development Review Board, or the Brandon Town Clerk if the Development Review Board has elected no Secretary, for review and consideration at a Public Hearing in accordance with 24 V.S.A. Section 4414(3). Applications for a waiver shall be in writing and shall include detailed information on the proposal and the criteria to be considered by the Development Review Board in evaluating the request.

(d) The Development Review Board shall hold a public hearing on the request for a waiver within sixty (60) days of the receipt of the request. Notice to the public shall be given in accordance with the provisions of 24 V.S.A. 4468, and a copy of the hearing notice shall be mailed to the appellant at least 15 days prior to the public hearing.

(e) Approval Criteria: The Development Review Board shall determine that in issuing the setback waiver, the proposed development will:

(1) Be compatible with the scale and design of structures and overall existing development pattern of the surrounding area.
(2) Not impair reasonable or appropriate use of adjoining properties.
(3) Not result in greater impacts on natural resources.
(4) Not impair sight distances on public or private roads.

(f) Conditions of Approval: In permitting a waiver, the Development Review Board may require certain conditions to meet the stated objectives of the Zoning District, reduce or eliminate impacts, or protect the interests of the surrounding properties, neighborhood or Town as a whole. These conditions may include, but need not be limited to the following:

(1) Limit the size of the structure;
(2) Require landscaping and screening;
(3) Reduce the encroachment into the setback;

(4) Control the location and number of vehicular access points; or
(5) Require applications to have professional site plans prepared by a Surveyor, Engineer or Architect licensed by the State of Vermont.

(g) Within 45 days of the conclusion of the hearing, the Development Review Board shall:

(1) Issue findings of fact based on evidence presented at the public hearing.

(2) Render a decision based on these findings of fact.

(3) Mail a copy of the decision by certified mail to the applicant and/or appellant.

(4) Mail copies of the decision to every person or body testifying at the hearing.

(5) File a copy of the decision with the Brandon Town Clerk for inclusion in the public records of the Town.

(6) File a copy of the decision with the Zoning Administrator, who shall take action consistent with the decision rendered by the Development Review Board.

Article XII. Definitions

Section 1200. General

(a) Except where specifically defined in the BLUO or in state statute, all words used in these regulations shall carry their customary meanings. Words used in the present tense include the future, and the singular includes the plural. The use of the masculine form of any word includes the feminine, and vice versa. The word “lot” includes “plot”; the word “building” includes “structure,” and vice versa. The word “shall” is mandatory, while “may” is permissive. “Occupied” or “used” shall be considered as though followed by “or intended, arranged, or designed to be used or occupied.” “Person” includes individual, partnership, association, corporation, company, or organization.

(b) The definitions contained in Sections 810, 1202, and 1203 apply only to the provisions of Articles VIII, IX, and X, respectively, and supersede definitions of the same term in Section 1201 only with respect to these three Articles.

Section 1201. Definitions Generally Applicable Throughout The BLUO

- Act 250 is 10 V.S.A. Chapter 151. The Town of Brandon is a ten-acre town for the purposes of “development” under 10 V.S.A. § 6001(3) and “subdivision” under 10 V.S.A. § 6001(19). Towns that have adopted permanent zoning and subdivision regulations and have not elected to remain “one-acre towns” are considered “ten-acre towns”.
- Accessory Structure or Use is any separate structure, building appendage that is not part of the main

living space or footprint of a home, or use that is subordinate to and serves a primary structure or use; and is subordinate in area, extent, and purpose to the primary structure or use served; and is located on the same lot as the primary structure or use served; and is customarily incidental to the primary use or structure. Any structure whose primary design or use was intended for a purpose other than storage; i.e., mobile home, bus, camper, trailer shall not to be allowed as a permanent accessory structure/storage building. Surface level parking lots are not considered accessory structures. A temporary structure shall be considered an accessory structure requiring a permit if it is or is intended to be on a lot for six months or more.

- Accessory Dwelling Unit means a distinct unit that is clearly subordinate to a single-family dwelling and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided the property has sufficient wastewater capacity; and the unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling or 900 square feet, whichever is greater.
- Aesthetics involve all the senses, including sound, smell, and overall perception, and involve the sense of place and the quality of life that a place affords. The aesthetics of a village environment include all of the qualities that make it attractive and desirable to live in and visit.
- Commercial Use includes all for-profit and non-profit operations.
- Conflict of Interest means any one of the following:
  (1) A direct or indirect personal interest of the zoning officer, his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother or sister-in-law, business associate, employer or employee, in the outcome of any zoning application. A "personal interest" includes any situation where a zoning officer has publicly displayed a prejudgment of the merits of a particular application before the officer. This shall not apply to an official's particular political views or general opinion on a given issue.
  (2) A direct or indirect financial interest of the zoning officer, his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother or sister-in-law, business associate, employer or employee, in the outcome of any zoning application.
- Congregate Residences - Apartments and dwellings with communal facilities and services. A congregate residence includes, but is not limited to, Residential Care Home, Assisted Living Residence, Nursing Home, and Therapeutic Community Residence (all terms as defined in 33 V.S.A. § 7102). A congregate residence may offer specialized support services to serve a population's needs, and/or general facilities/services, such as communal restrooms or transportation services.
- Construction of a Building or Structure means assembling materials and any land preparation in anticipation of actual construction work, as well as the act of building a new structure.
- Conversion of a Building or Structure means a physical, structural, or design change or transformation from one use to another.
- Driveway - any traveled way for access to one residence or one primary structure.
- Dwelling Unit - a room or group of rooms used to provide living quarters for one or more persons living on the same premises as a single housekeeping unit; or a sleeping room in an inn, hotel, motel, or other establishment offering accommodations to transient or permanent guests. A dwelling unit has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided the property has sufficient wastewater capacity.
- Enlargement of a Building or Structure means adding to the footprint or roof projection of an existing structure.
- Farm Structure means a building, enclosure, or fence for housing livestock, raising horticultural or

agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as "farming" is described in Title 10 V.S.A. Sub§6001(22), but excludes a dwelling for human habitation.

- Fence - a barrier intended to prevent escape or intrusion or to mark a boundary, including stone walls.
- Helipad – A restrictive landing area, as defined by the State of Vermont. The BLUO classifies Restrictive Landing Area as High Impact Uses, meaning they are only permitted as a Conditional Use in the Rural District.
- Impervious Surface is a hard surface area that prevents or substantially impedes the natural infiltration of water into the underlying soil, resulting in an increased volume and velocity of surface water runoff.
- Junk - old or scrap copper, brass, iron, steel and other old or scrap or nonferrous material, including but not limited to rope, rags, batteries, glass, rubber debris, waste, trash or any discarded, dismantled, wrecked, scrapped or ruined motor vehicles or parts thereof.
- Land Development means 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 or landfill; and any change in the use of any building or other structure, or land, or extension of use of land.
- Lot Line Adjustment is any adjustment of property lines that does not result in the creation of one or more additional lots after the transaction has been completed.
- Luminaries are any complete lighting unit that includes a lamp (light source), fixture, and all necessary mechanical, electrical, and decorative parts.
- Minor Land Development Projects – A project that involves small-scale alterations or minor impact to an existing structure or lot. A minor land development project includes, but is not limited to painting, flooring, landscaping, upgrading cabinets and countertops and replacing light bulbs (provided they adhere to the BLUO).
- Minor Impact – A project that has effects on the surrounding area less than or equal to those listed as exempt from the BLUO.
- Mixed Use Developments – The development of a neighborhood, tract of land, build, or structure with a variety of complementary and integrated uses, such as, but not limited to, residential, office, manufacturing, retail, public, and recreation, in a compact form.
- Mobile Home Park - any parcel of land under single or common ownership or control which contains, or is designed, laid out, or adapted to accommodate two or more mobile homes. This definition shall not apply to the display of mobile homes for sale only.
- Nonconforming Lots means lots or parcels that do not conform to the present bylaws covering dimensional requirements but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the Zoning Administrator.
- Noncomplying 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 Zoning Administrator.
- 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 Zoning Administrator.
- Nonconformity means a nonconforming use, structure, lot, or parcel.

- Person means an individual, a corporation, a partnership, an association, and any other incorporated or unincorporated organization or group.
- Plan is a detailed conceptual description of a project.
- Planned Unit Development means one or more lots, tracts, or parcels of land to be developed as a single entity, the plan for which may propose any authorized combination of density or intensity transfers or increases, as well as the mixing of land uses. This plan, as authorized, may deviate from bylaw requirements that are otherwise applicable to the area in which it is located with respect to lot size, bulk, or type of dwelling or building, use, density, intensity, lot coverage, parking, required common open space, or other standards.
- Plat is a map of a proposed subdivision showing the features required in the Plan/Plat Mapping Requirements portion of Section 705.
- Primary Structure is a structure or building in which is conducted, or in which is intended to be conducted, the main or primary use of the lot on which it is located.
- Primary Use - the main purpose for which a parcel of land or building is used.
- Private Road - any traveled way providing access to three or more residences or primary structures including proposed rights of way.
- Public Notice means the form of notice prescribed by sections 24 V.S.A. §§4444, 4449, or 4464, or as otherwise required by these Bylaws or the Municipal and Regional Planning and Development Act.
- Reconstruction - the entire replacement in the same location as the previous structure, or any portion of a structure, for example, porch, deck, shed, that does not increase its size and is replaced within one year of removal.
- Recreation Vehicle – A vehicular-type portable structure without permanent foundation that can be towed, hauled, or driven, (including motor homes, pickup trucks with attached campers, and buses) and is primarily designed as a temporary living accommodation for recreational and camping purposes.
- Relocation of a Building or Structure means the intentional moving of a building to a different location.
- Renewable Energy Resources means energy available for collection or conversion from direct sunlight, wind, running water, organically derived fuels, including wood and agricultural sources, waste heat, and geothermal sources.
- Right of Way - unless determined otherwise by deed, the Town/State right of way (ROW) will be considered to end 25 feet from the centerline of the road or at the edge of the sidewalk closest to the structure.
- Security Lighting – Exterior illumination designed and installed to deter criminal activity, detect persons or objects, and enhance property safety.
- Slope is defined as the inclination of the land's surface from the horizontal.
- Structure means an assembly of materials for occupancy or use, including a building, mobile home or trailer, sign, wall, or fence.
- Structural Alteration means any exterior or interior changes to a building made in anticipation of a change of use.
- Subdivision is a division of any lot or parcel of land, after the effective date of these regulations, into two or more lots of any size, for the purpose of conveyance, transfer of ownership, improvement, building, development, or sale. The term subdivision includes re-subdivision. For the purposes of this regulation, any transfer, conveyance, or sale of land held in common ownership but divided by an existing public right-of-way shall not be considered a subdivision if the land on each side of the

public right-of-way has a preexisting separate deed and if each meets the lot size requirement of the district.

- Substantial Change is any change that will have an undue adverse impact on one or more of the Performance Objectives and Standards contained in Article VI.
- Substantial Progress means that the developer has completed construction amounting to at least 40% of the total cost of the development.
- Temporary Structure is any structure that is not a manufactured home, is not permanently affixed, and is not or which is not otherwise designed or intended for permanent placement. A temporary structure includes shipping containers, dumpsters, and temporary construction offices. A temporary structure shall be considered an accessory structure requiring a permit if it is or is intended to be on a lot for six months or more.
- Town - includes the Town of Brandon, Brandon Fire District #1 and #2, and/or the Brandon Town School District.

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

Section 1202. Definitions Specific to Article IX, Signs,

- Abandoned Sign Structures. Any structure designed for the support of a sign that no longer identifies or advertises an ongoing business, product, location, service, idea, or activity conducted on the premises on which the sign is located.
- Abandoned Signs. A sign that no longer identifies or advertises an ongoing business, product, location, service, idea, or activity conducted on the premises on which the sign is located.
- Animated Sign. A sign employing actual motion, the illusion of motion, or light and/or color changes achieved through mechanical, electrical, or electronic means.
- Architectural Projection. Any projection from a building that is decorative and/or functional and not intended for occupancy, and that extends beyond the face of an exterior wall of a building but that does not include signs
- Awning Sign. A sign displayed on or attached flat against the surface or surfaces of an awning.
- Awning. An architectural projection or shelter projecting from and supported by the exterior wall of a building and composed of a covering of rigid or non-rigid materials and/or fabric on a supporting framework that may be either permanent or retractable.
- Canopy Sign. A sign affixed to the visible surface(s) of an attached or freestanding canopy.
- Canopy. A multi-sided overhead structure or architectural projection supported by an attachment to a building and/or columns.
- Conforming Sign. A sign that adheres to the latest amendment or adoption of the BLUO
- Commercial Flag. A banner or pennant used primarily for advertising or promotional purposes, and are designed to attract attention and promote a business or activity.
- Directional Sign. Any sign that is designed and erected to provide direction and/or orientation for pedestrian or vehicular traffic.

- Electronic Message Board. An electrically activated changeable sign whose variable message and/or graphic presentation capability can be electronically programmed by computer from a remote location.
- Feather Flag. A specific type of commercial flag. A feather flag is a narrow flag that resembles a feather or a sail, and is made of lightweight fabric, typically attached to a pole or rod.
- Freestanding Monument Sign. A freestanding sign permanently affixed to the ground at its base, supported entirely by the structure, and not mounted on a pole(s) or attached to any part of building.
- Freestanding Pole Sign. A freestanding sign that is permanently supported in a fixed location by a structure of one or more poles, posts, uprights, or braces from the ground and not supported by a building or a base structure.
- Freestanding Sign. A sign principally supported by one or more columns, poles, or braces placed in or upon the ground.
- Inflatable Sign. A gas or air-filled object, or any shape or size made of flexible fabric that is tethered to a fixed location, and which contains an advertisement message on its surface or attached to the object in any manner or which is meant to sister-in-law call attention to the property.
- Mechanically Moving Sign. Any environmentally activated sign or other display with mechanical motion powered by natural, manual, mechanical, electrical, or other means, including but not limited to pennant strings, streamers, spinners, propellers, and searchlights.
- Nonconforming Sign. A sign that was legally installed by permit in conformance with all municipal sign regulations and ordinances in effect at the time of its installation, but which may no longer comply with subsequently enacted laws and ordinances having jurisdiction relative to the sign.
- Non-Commercial Flag. A non-commercial flag does not promote commercial activities or businesses. These flags include government flags, flags of specific organizations, decorative or seasonal flags, or flags expressing personal beliefs or causes.
- Off-Premise Sign. A sign that directs attention to an establishment, service, product, or activity not conducted on the same lot.
- Projecting Sign. A sign other than a Wall Sign that projects from a building face or wall or from a structure whose primary purpose is other than the support of a sign.
- Roof Sign**.** A sign mounted on the main roof portion of a building or the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such building. Signs mounted on mansard facades, pent eaves, and architectural projections such as canopies or marquees shall not be considered to be roof signs.
- Shared Right-of-Way Sign. A sign shared by all uses that share a single access road or right-of-way.
- Sign Copy. The physical sign message, including any words, letters, numbers, pictures, and symbols.
- Sign Permit. A permit for a sign that conforms to Article Section 909 provisions.
- Sign Structures. Any structure designed for the support of a sign.
- Sign. Any device visible from a public way or place whose purpose and design is to convey either commercial or noncommercial messages using graphic presentation of alphabetic or pictorial symbols or representations.

- Special Event Sign. A temporary sign pertaining to any civic, patriotic, or special event of general public interest. Special Event signs may be displayed one week prior to the first occurrence until one day after the occurrence.
- Temporary Sign. A sign intended to display either commercial or noncommercial messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs. Temporary signs include portable signs displayed when a commercial establishment is open, signs displayed to facilitate the sale of real estate of the lot, and portable election-related signs. A commercial flag is a temporary sign.
- Wall Sign. A sign that is mounted flush to any exterior wall of a building and that does not project more than twelve (12) inches from the building or structure wall.
- Window Sign. A sign affixed to the surface of a window with its message intended to be visible to the exterior environment.

Section 1203. Definitions Specific to Article X, Wireless Telecommunication Facilities

- Wireless Telecommunication Facility. Any tower or other support structure, including antennae, that will extend 20 or more feet vertically, and any accompanying structure, building, access road, service utility or equipment that broadcasts or receives radio frequency waves carrying Wireless Telecommunication Services.
- Wireless Telecommunication Service. Any commercial mobile service, wireless service, common carrier wireless exchange service, cellular service, personal communication service (PCS), specialized mobile radio service, paging service, wireless data service, or public or private radio dispatch service.
- Wireless Telecommunication Service Provider. Any person or entity providing Wireless Telecommunication Services

BRANDON, VERMONT

ZONING MAP

Legend

Aquifer Protection Overlay District

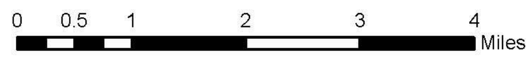
DISTRICT

- Central Business
- Mixed Use
- Neighborhood
- Village
- Rural

DISCLAIMER

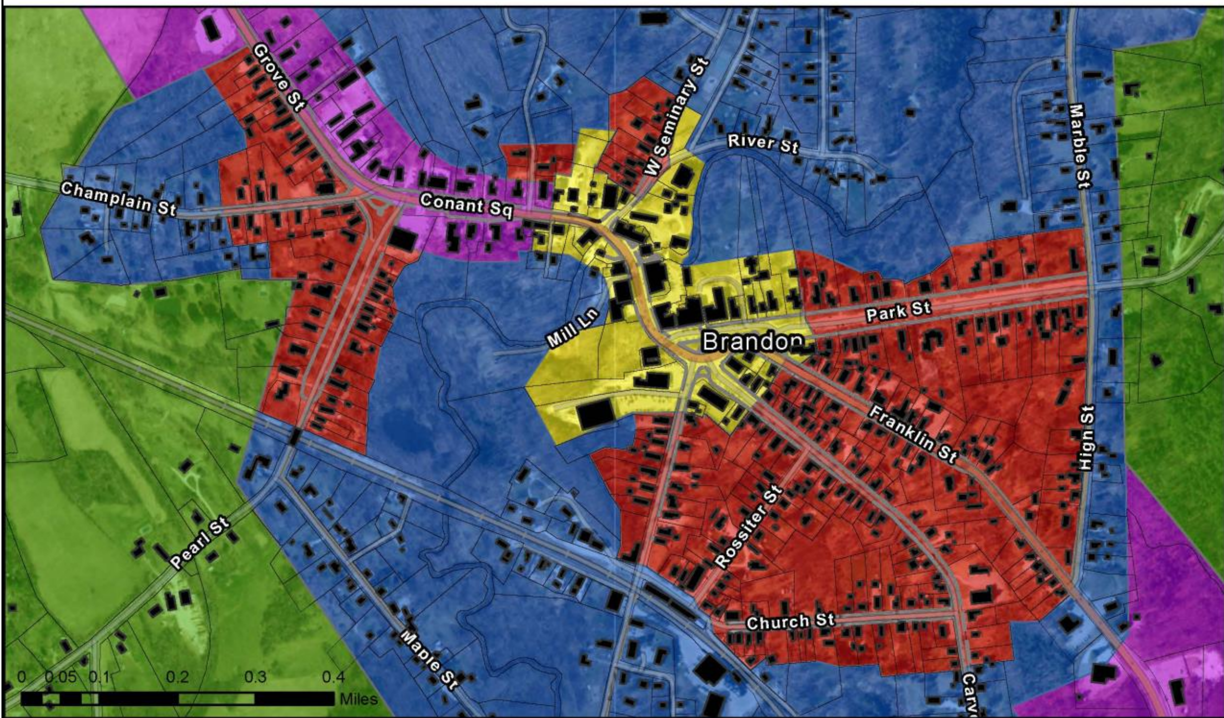
- Where overlay districts impose greater standards than those required by the zoning district, the more restrictive standard shall apply.

-The following overlay districts (Fluvial Erosion Hazard Areas/ Special Flood Hazard Areas ("hazard areas"), and River Corridors) are not located on the official Zoning District Map. The official copies of these maps are posted in the Brandon Town Offices.



MAP PRODUCED BY
THE RUTLAND REGIONAL PLANNING COMISSION

BLUO ZONING INSETS



Aquifer Protection Overlay District
Sidewalks
Central Business
Mixed Use
Village
Neighborhood
Rural