

## CHAPTER 5: DEVELOPMENT REVIEW PROCEDURES

This Chapter establishes procedures for review of any activity that requires approval under the Land Development Code.

### **SECTION 501: PROCEDURES OF GENERAL APPLICABILITY**

- A. **Pre-Application Conference.** Prior to submittal of an application for any development, the applicant should schedule a pre-application conference with Staff. Staff shall review the proposal, identify required permits or approvals, and advise the applicant of necessary application materials.
- B. **Filing of Applications.** All applications requiring a public meeting or hearing must be received and determined complete forty-five (45) days prior to a scheduled meeting and shall be submitted on forms provided by the Community Development Department. Supplemental materials shall be attached to the form as required. Once an application is submitted to the Community Development Department for review, and a public meeting or hearing has been warned, any additional information must be submitted at least 10 days prior to the public meeting or hearing. In addition, no changes which significantly alter the concept of the project may be made once an application has been submitted and any changes must be reviewed by staff prior to Planning Commission consideration. Applications shall not be accepted for review by the Community Development Department, if outstanding zoning violations exist on the property.
- C. **Determination of Completeness.** Within ten (10) working days after an application form for development approval has been received, the Community Development Department shall determine whether the application is complete. If Staff determines that the application is incomplete, Staff shall notify the applicant in writing of the deficiencies. This provision shall not apply to applications for Temporary Use Permits.
- D. **Notice of Public Hearings and Public Meetings.** Notice of public hearings or meetings required under this Code shall comply with this Section and with Vermont's Open Meeting Law (1 V.S.A. §§ 310-314) unless otherwise specified.
1. **Published Notice.** Notice for all public meetings with applications scheduled for review shall be published in a local newspaper of general circulation not less than seven (7) days prior to a scheduled meeting. No application shall be warned for a meeting or hearing, unless the application has been determined to be complete. Notice for all Public Hearings required under this Code shall be published not less than fifteen (15) days prior to the scheduled hearing in a local newspaper of general circulation pursuant to Section 4447 of Title 24 Chapter 117 of Vermont Statutes. All public notices shall include a description of the purpose of the application, hearing or meeting date, applicant, and time and location of hearing or meetings.
  2. **Posted Notice.** All scheduled hearings or meetings shall be posted on a bulletin board in three locations. One of the three notices for public hearings shall be posted within view of the public Right-of-Way most nearly adjacent to the property for which an application is made.
  3. **Mailed Notice.** Community Development Department staff shall mail notice to all property owners contiguous within one hundred fifty (150) feet of the project site impacted except as specified herein. If the proposed development is located on a private

street, notice shall also be sent to the owners of all properties having any rights of usage of the private street. All calculations to determine notice requirements shall exclude streets, rights of way, easements or streams. Prior to any public hearing or meeting, an applicant may request that the Commission waive the mailed notice requirement if the proposed development is located entirely on the interior of a lot and is located at least one hundred fifty (150) feet from any property line. Such a waiver shall not be granted for any subdivision application.

4. **Property Notice.** All applicants for any development approval which requires public notice shall, no less than seven (7) days prior to the public hearing or meeting, post a sign on the property. Said sign shall be provided by the Community Development Department and shall indicate the date, time, location and purpose of the hearing or public meeting.

5. **Defects in Notice.** A defect in notice not caused by an intentional or negligent act or omission of the applicant shall not be grounds for a continuance of the hearing, nor in any way affect the action taken at such hearing.

E. **Public Hearing Procedures:**

1. The Planning Commission shall meet two times each month on a pre-established meeting schedule, however, a meeting can be canceled on holidays or if there is nothing on the agenda.

2. **Staff Report.** Staff shall present a summary of the application and provide recommendations.

3. **Applicant presentation.** The applicant may present evidence relevant to the application. Information not relevant to the application may be disallowed by the Chair.

4. **Public Input.** The hearing shall be opened for public comment. Public comment is restricted to the issue before the Zoning Board, Trustees or Commission. Information not relevant to the issue at hand may be disallowed by the Chair.

5. **Deliberations.** The Zoning Board, Trustees or Commission shall review the application, staff recommendations, public input, and all applicable laws or regulations prior to making a decision. The decision may be postponed until a subsequent meeting and deliberations may be made in executive session.

6. **Decisions.** The Zoning Board, Trustees or Commission shall make its decision on all applications in a public meeting or shall provide written findings as specified below.

(a) The Board shall make and issue written findings and conclusions supporting its decision on all applications before it.

(b) The Commission shall make and issue written findings and conclusions supporting its decision on any application before it. Minutes may suffice provided the factual bases and conclusions relating to the review standards are provided in conformance with this subsection.

(c) The Trustees, at their discretion, may make and issue written findings and conclusions supporting its decision on any application or appeal before it.

F. **Public Meetings.** Public meetings with no applications for development approval shall be posted in two public locations not less than 48 hours prior to the scheduled meeting. The Chair shall have the authority to schedule presentations, solicit public comment, and direct the meeting in an orderly fashion.

G. **Computation of Time.** The time within which an action is to be completed shall be

computed by excluding the first day and including the last day; if the last day is a Saturday, Sunday or legal Holiday, that day shall be excluded except as otherwise provided by Vermont Statutes.

**SECTION 502: APPROVAL PROCEDURES FOR ACTIVITIES REQUIRING REVIEW UNDER CHAPTERS 6 AND 7**

A. Zoning Permit Requirement. A zoning permit is required for the construction of any structure, the making of any material change in the use of any structure or land, the making of a change in the intensity of use of a structure or land, or the filling of land. For the purpose of this Code, the activities identified in this section are referred to as "development activities".

1. Approval Required. Issuance of a zoning permit shall require review and approval under one or more of the following review procedures, as determined by the staff:

- (a) Permitted Use - Section 502.B
- (b) Conditional Use - Section 502.C
- (c) Temporary Use - Section 502.D
- (d) Professional Office Development - Section 502.E
- (e) Site Plans - Section 502.F
- (f) Home Occupation - Section 502.G
- (g) Signs - Section 502.H
- (h) Accessory Apartments - Section 502.I
- (i) Nonconforming Use - Section 502.J
- (j) Noncomplying Structure - Section 502.K
- (k) Existing Small Lots - Section 502.L
- (l) Planned Unit Development (PUD) - Section 502.M
- (m) Telecommunications – Section 502.N
- (n) Master Plans – Section 502.O

2. Application Requirements. An application for a zoning permit shall include the following:

- (a) A plan, drawn to scale, showing the dimensions of the lot and all structures, required set-backs and parking spaces.
- (b) A description of the proposed use or uses of the land and structures and existing or proposed uses of adjacent lands.
- (c) Any other information required by Staff to provide a clear understanding of the proposal.
- (d) Applications or requests for all other permits or approvals which may be necessary (i.e. water and sewer connections).

3. Time Limitations:

(a) Staff shall act to approve or deny all permit applications within ~~seven-thirty (40307)~~ days of receipt of a complete application. If, however, Staff determines that the application is incomplete or does not include evidence that all conditions established by the Commission or Board have been met, Staff shall notify the applicant in writing of deficiencies. If additional information or action to remedy the deficiencies is not received within ~~teathirty (4030) -days~~ ~~seven (7) days~~ of the notification, Staff shall deny the permit application.

~~(b) Special Extension. In unusual situations where Staff determines that additional research or legal opinion is necessary for complete review of the~~

**Commented [JJ1]:** 10 Working Days if statute allows. Clarify "days"

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~~application. Staff may extend the decision period for a period not to exceed twenty (20) days from the date of receipt of a complete application, and shall so notify the applicant in writing.~~

4. Approval Standards and Issuance of Permit. Staff shall issue a Zoning Permit upon determination that the applicant has obtained any approval required under Section 502.A.1 and has complied with any conditions of the approval(s) granted. Each permit shall indicate the time period within which an appeal may be taken (fifteen (15) days) and the following obligations of the permittee:
  - (a) To immediately post the permit on the property in a location visible from the street and to keep it posted until the development is complete.
5. Administrative Requirements. Upon issuance of a permit, Staff shall:
  - (a) Deliver a copy to the listers/assessor of the Town.
  - (b) Post a copy of the permit in at least one public place in the Village for a period of at least fifteen (15) days after the date of issuance of the permit.
6. Denial of permit application. If Staff determines the application does not satisfy the requirements of this Code, the application shall be denied and the applicant notified in writing stating the reasons for denial.
7. Appeals. Any interested person may appeal a decision of Staff regarding a Zoning Permit by filing an appeal in accordance with Section 1702 below.
8. Reapplication. A permit may be resubmitted at any time with required additions or corrections. If the re-submittal remedies all deficiencies, and is received within thirty (30) days of the initial denial, it shall be attached to the original application and no additional fee shall be required.
9. Expiration of Permits. A zoning permit shall expire one year from the date of issuance. If the applicant has commenced work, the permit may be extended without fees for an additional year if requested in writing prior to the date of expiration and may not be renewed again. If work is not completed after two years, the applicant will be required to obtain a new permit and pay all appropriate fees in place at the time the permit application is submitted.

#### B. Approval of Permitted Uses

1. Purpose. Permitted uses are considered to be appropriate within the District in which they are located. These uses are permitted "by right" subject to the required permits and procedures specified in this Code. Review of permitted uses involves a minimal degree of discretion and requires only administrative review to determine compliance with standards applicable to the particular permitted use.
2. Review Requirement. Development activities involving those uses identified as "Permitted Uses" are subject to review under the standards applicable to such uses. Permitted uses, within this code are the uses designated by an "X" on the Use Table set forth in Section 620.
3. Approval Standards. Staff shall review an application for a permitted use to determine if it meets the dimensional requirements of Chapter 6 and the development standards of Chapter 7. Approval will be granted if staff determines that the use meets such standards.
4. Expiration of Approval. A decision approving a permitted use shall expire six (6) months from the date of approval if a zoning permit is not issued within such six-month period.
5. Appeals. Any interested person may appeal a Staff decision regarding a permitted

**Commented [RM3]:** Is the staff approval NOT the Zoning Permit itself?

use by filing an appeal in accordance with Section 1702.

C. Approval of Conditional Uses:

1. Purpose. To provide a review mechanism for uses which may be allowed in a District after review by the Zoning Board. A Conditional Use is not a permitted use and is allowed only upon specific action by the Board on a specific application.

2. Review Requirement. Development activities involving those uses identified as "Conditional Uses" are subject to review under the standards applicable to such uses. Conditional uses, within the meaning of this Code are those uses designated by a "C" on the Use Table set forth in Section 620, below.

3. Approval Standards:

- (a) The proposed use will be consistent with the Comprehensive Plan.
- (b) The proposed use will not adversely affect the character of the neighborhood.
- (c) The proposed use will not be detrimental to adjoining properties.
- (d) The proposed use will not negatively affect the public health, safety, or welfare.
- (e) The design of the proposed use will minimize any potential adverse impacts.
- (f) Specific standards for the proposed use as listed within Chapters 6 and 7 of this Code shall be met.
- (g) The proposed use will not adversely affect traffic on streets in the vicinity of the project.
- (h) The proposed use will not adversely affect the capacity of existing or planned public infrastructure.
- (i) The proposed use will not adversely affect the utilization of renewable energy resources.

4. Conditional Use Application Requirements. Conditional use applications must include all submittal requirement listed in Section 502.I.4 for Site Plan Applications unless staff determines such information is not necessary.

5. Public Hearings. The Board shall convene a public hearing for consideration of all Conditional Use applications.

6. Action by the Zoning Board of Adjustment. The Board shall deny, approve or approve with conditions all applications within ~~sixty-fourty-five (6045)~~ days of the closing of the public hearing. Failure to act within this period shall be deemed approval. The Board shall issue written findings and conclusions supporting its decision on all applications; and the decisions shall include any conditions or restrictions established to ensure that all standards will be met.

7. Expiration of Approval. A decision approving a conditional use shall expire one year from the date of approval if a zoning permit is not issued within such one year period.

8. Appeal. Any interested person may appeal a decision regarding conditional use by filing an appeal in accordance with Section 1706 below.

D. Approval of Temporary Uses

1. Purpose. Within any district there are uses that may be appropriate on a temporary or limited basis. It is the intent of this Code to allow these uses on a limited basis.

2. Review Requirement. Activities involving those uses identified as "Temporary Uses" are subject to review under the standards applicable to such uses. Temporary Uses

**Commented [RM4]:** State statute now includes another provision: "A multiunit dwelling project consisting of four or fewer units located in a district allowing multiunit dwellings may not be denied solely due to an undue adverse effect on the character of the area affected." However the LDC doesn't require Conditional Use of any multifamily project, so that's great and this edit isn't needed here.

**Commented [RM5]:** This needs to be a 45 days.

**Commented [RM6]:** If it's mixed use, or multi-family (particularly) affordable it could take them more than a year to come back for Zoning Permit. Why not make this two years?

include: temporary activities authorized in the Planned Exposition District as specified in Section 612; activities identified as "temporary" in the land use table at Section 620; the temporary parking of a vehicle for sale in accordance with Section 703(I); the temporary parking of storage trailers and boxes in accordance with Section 703(J) and temporary outdoor commercial activities in accordance with Section 706(G); the temporary sale of personal goods at garage or yard sales in accordance with Section 706(M).

3. Application Requirements. All applications for a Temporary Use Permit shall be submitted on forms provided by the Community Development Department. The application shall include:

- (a) Description and location of the proposed use.
- (b) Proposed duration of the use, (including time needed to set up materials, stands, products, or any structures which are to be used.)
- (c) Location of any proposed signs.
- (d) A description and map of circulation and parking areas.
- (e) A description of the potential impact of the use on any public infrastructure or public services, including fire protection and police protection.

4. Approval Standards. Staff shall review all applications for Temporary Use Permits. Staff will issue permits upon finding that the application meets the requirements of applicable sections of this Code. Staff may place conditions upon any approval in the following areas:

- (a) Time limits may be established for any use.
- (b) Measures to ensure adequate parking, limit signs and traffic control.
- (c) The location of any proposed temporary use may be restricted for public safety purposes.
- (d) Conditions to ensure conformance with performance standards set forth in Section 718 and other applicable provisions of this Code.

5. Review Times. Staff shall review all applications for Temporary Use Permits within three (3) working days of receipt, excluding weekends and Holidays. This time limitation shall not apply if the application is incomplete.

6. Expiration of Permits. Permits shall expire as specified at the time of issuance. No time extensions shall be granted. Each activity shall require application for a new permit except as expressly provided herein.

7. Appeal of Denial. Any interested person may appeal a decision regarding a temporary use by filing an appeal in accordance with Section 1702 below.

E. Professional Office Development.

1. All activities involving professional office development as defined in Section 723 shall be reviewed pursuant to procedures set forth in this Section. All proposed professional office development shall be reviewed by the Planning Commission to determine if it is an acceptable use.

2. Review Standards. An application for professional office development shall meet the general standards applicable to permitted uses and the specific standards set forth in Section 723.

3. Expiration of Approval. An approval for Professional Office Development shall expire in accordance with terms set forth in the approval.

4. Appeals. Any interested person may appeal a decision of the Board of Adjustment regarding professional office development in accordance with the procedures set forth in Section 1706 below.

F. Approval of Site Plans

1. Purpose. To provide procedures for the timely and efficient review of applications for Site Plan approval.
2. Review Requirement. Development activities involving any use except activity involving a one family or a two family dwelling unit are subject to review at a Public Meeting under the standards applicable for site plans.
3. Conceptual Site Plan. A Conceptual Site Plan Review is required for the proposal of three (3) or more housing units on a single lot. The purpose of the Conceptual Site Plan Review is to discuss initial project feasibility and to give the applicant the right to proceed. Detailed engineering studies are not required but sufficient data shall be submitted to enable the Commission to review the merits of the proposal.
  - (a) Review of a Conceptual Plan shall require a public meeting.
  - (b) The Commission may approve or deny a Conceptual Plan, and may make suggestions to be included when the Final Site Plan is prepared.
  - (c) Approval of a Conceptual Plan authorizes the applicant to proceed to the next steps of the approval process, but does not commit the Commission to further approvals.
  - (d) Submittal requirements. The Conceptual Plan application shall include sufficient information to enable the Commission to review the merits of the application and to determine that all Code standards will be met. At a minimum, the submittal shall include:
    - (i) The project name, address and legal description; name, address and telephone number of the developer and project design professionals.
    - (ii) The approximate location of all proposed land uses including the number of dwelling units and/or the number, type and typical square footage of non-residential buildings, and total square footage of the project.
    - (iii) The proposed height and number of stories of each building.
    - (iv) A sketch of a typical structure.
    - (v) The approximate location of proposed roads, parking areas, sidewalks, bikeways, fire lanes and other proposed circulation elements and patterns.
    - (vi) A landscape concept showing typical planting schemes, types of planting materials and general locations of major landscaping items such as berms, ponds, retaining walls or other man-made improvements.
    - (vii) The approximate location and size of proposed curb cuts on public or private streets, and the size and type of all interior curb cuts.
    - (viii) The approximate location and size of all common improvements, common open space and lands to be dedicated to public ownership.
    - (ix) An estimate or projected use of public infrastructure, including a preliminary statement regarding traffic, sewer, ~~and~~ water demand impacts, ~~and stormwater runoff mitigation, etc.~~
    - (x) Information on surrounding properties, including land uses, zoning, ownership and traffic patterns.
    - (xi) The height, size, location and typical sketches of proposed signs and fencing, if any.
    - (xii) A preliminary analysis of drainage proposals, including a topographical map of the project area.

(xiii) An indication of proposed setbacks and minimum distances between proposed structures.

(xiv) A written request for any waivers to any standards contained in this Code, along with a justification for the request.

(xv) Any other information deemed pertinent to the review of the specific Conceptual Plan.

~~(xv)~~(xvi) Whenever a proposed site plan involves access to a State highway or other work in the State highway right-of-way such as excavation, grading, paving, or utility installation, the application for site plan approval shall include a letter from the Agency of Transportation confirming that the Agency has reviewed the proposed site plan and determined whether a permit is required under 19 V.S.A. § 1111. If the Agency determines that a permit for the proposed site plan is required under 19 V.S.A. § 1111, then the letter from the Agency shall set out any conditions that the Agency proposes to attach to the permit required under 19 V.S.A. § 1111.

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4. Site Plan Application Requirements. The applicant shall submit a Site Plan, drawn to scale (including a north arrow) and documentation to include the following:
- (a) A vicinity map drawn to scale which clearly shows the site in relationship to the surrounding property and specifies adjoining land use and zoning.
  - (b) Name, address and phone number of developer and all professionals working on the project.
  - (c) A survey of the property prepared by a Land Surveyor licensed to practice in the State of Vermont which shows existing or proposed rights-of-way and easements. This is required for projects that involve new buildings. Staff may require a survey for additions of over five hundred (500) square feet if the addition is within ten (10) feet from any required setback line or for other projects, which staff determines a survey is necessary due to the size, scope and cost of the project.
  - (d) Total land area and location, size, height, and number of stories of all existing and proposed structures and the distance from all structures to the nearest property line.
  - (e) Location and dimensions of existing and proposed easements, streets, driveways, and infrastructure.
  - (f) Clear delineation of roads and infrastructure to be reviewed for acceptance as public at the completion of the project.
  - (f) Description of proposed use and floor areas of all structures and calculations of parking and loading requirements.
  - (g) A topographic map showing final ground contours at no more than two (2) foot intervals if staff determined that such information is necessary.
  - (h) Identification of existing natural features including rock outcroppings, wetlands, areas of excessive slope, and tree groupings.  
A detailed Landscape Plan by a landscape design professional. The Landscape Plan shall specify the type, size, quantity and location of all plant materials, existing and proposed.
  - (j) Lighting plan pursuant to Section 704.
  - (k) Impact analysis to include traffic generation and impact on public and/or private infrastructure.

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- (l) Proposed engineering design standards for all improvements required by this Code.
- (m) As necessary, a traffic study.
- (n) Written request for waivers of any requirements of this Code.
- (o) Location of any proposed new water or sewer service connections- ~~with clear delineation of infrastructure to be reviewed for acceptance as public at the completion of the project~~ as part of any application.
- (p) Proposed development schedule and phasing request, if applicable.
- (q) Location and type of all proposed or required screening or buffering.
- (r) Elevation of existing and proposed structures and any proposed change to height of existing structures.
- (s) Location and type of all proposed signs.
- ~~(t) Phosphorus loads and removal calculations for generated on-site plus removal calculation for and stormwater infrastructure must be provided being proposed utilizing HydroCAD using AutoCAD.~~
- ~~(u) Whenever a proposed site plan involves access to a State highway or other work in the State highway right-of-way such as excavation, grading, paving, or utility installation, the application for site plan approval shall include a letter from the Agency of Transportation confirming that the Agency has reviewed the proposed site plan and determined whether a permit is required under 19 V.S.A. § 1111. If the Agency determines that a permit for the proposed site plan is required under 19 V.S.A. § 1111, then the letter from the Agency shall set out any conditions that the Agency proposes to attach to the permit required under 19 V.S.A. § 1111.~~
- (v) Other additional information requested by Staff to provide a clear understanding of the project.

5. Review Standards. All applications for Site Plan approval shall be reviewed for neighborhood compatibility, effect on public infrastructure, traffic generation, public health, safety and welfare, and the General Development Standards specified in Chapter 7 of this Code. The location of fire lanes shall be reviewed by the Fire Chief.
6. Approval Conditions. The Commission may consider and impose conditions and safeguards with respect to the adequacy of traffic access, of circulation and parking, of landscaping and screening, and to protect the utilization of renewable energy resources.
7. Actions by Planning Commission. The Commission shall review all applications for approval except as provided herein. The Commission may table an application pending further information from the applicant. The application shall be denied if the applicant does not submit the requested information within the time specified by the Commission. The Commission may deny, approve, or approve with conditions, any application within sixty (60) days after the public comment period is closed. Failure to act within this time period shall be deemed approval.
8. Exceptions/Waivers. Upon receipt of a written request, the Commission may consider and grant waivers to Site Plan standards as authorized in Chapter 7 of this Code.
9. Expiration of Approval. Site Plan approval shall expire one (1) year after approval if a Zoning Permit application has not been made. Staff may approve an extension not to exceed six (6) months upon receipt of a written request prior to expiration of the initial approval by the Commission.
10. Appeal of Denial. An applicant may appeal a decision denying approval of a site plan by filing an appeal as specified in Section 1707 of this Code.

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11. Site Plan Amendments/Minor Developments. Amendments to approved Site Plans shall be classified by Staff as a major or minor amendment based upon the following criteria:

- (a) Major amendment. A major amendment requires review of the proposed changes by the Commission and includes the following changes:
  - (i) Any change in land use density or intensity which requires increased parking or loading spaces.
  - (ii) Any proposed change which would result in the elimination or removal of existing landscaping required by the Commission.
  - (iii) Any proposed change which would require the relocation of driveways or curb cuts on any public street or right-of-way.
  - (iv) Any proposed change which would require a waiver of any provision of this Code.
  - (v) Any change in location of structures which would reduce the approved setback.
  - (vi) Any major change in the location of landscape areas, sidewalks or bike paths.
  - (vii) Other proposed changes as determined by Staff which would alter the intent of findings.
- (b) Minor amendment/development. A minor amendment or development application requires Staff review and approval. Staff may approve changes to existing sites where no site plan is on file (minor development) if the proposed change meets the criteria below. Applications for a minor development shall include only a zoning permit application. Any proposed development on a site with no approved site plan on file that doesn't meet the criteria below, shall submit a new site plan application for approval by the Commission. Approval of changes to a property without an approved site plan on file does not constitute an approved site plan and any future changes that don't meet the criteria below are subject to full site plan review by the Commission. Staff reserves the right to defer applications to the Planning Commission which would significantly alter the existing site. Minor amendments/developments include the following changes:
  - (i) Any change in land use density or intensity which does not result in an increased requirement for parking or loading spaces.
  - (ii) Any engineering design changes as approved by the Village Engineer.
  - (iii) Any addition of less than five hundred (500) square feet if the addition meets all of the requirements of this Code and does not involve a change of use which exceeds required parking, traffic or infrastructure demands. Any addition which meets the requirements of Section 611.G.
  - (iv) Any change in lighting plans which meet the requirements of this Code.
  - (v) Minor changes in location of landscaped areas, sidewalks or bikepaths.
  - (vi) Substitution of proposed planting materials from the approved planting list provided that the substitution does not change the overall design concept approved by the Commission.
  - (vii) Minor changes in the location of structures.
  - (viii) Other minor changes as determined by Staff which do not alter the concept of the development, or the development as approved by the

## Commission.

12. Appeals.
  - (a) Any interested person may appeal a Commission decision regarding a Site Plan by filing an appeal in accordance with the procedures of Section 1707.
  - (b) Any interested person may appeal a Staff decision classifying a Site Plan Amendment or acting on a minor amendment by appealing to the Commission pursuant to Section 1704.

G. Approval of Home Occupations

1. Purpose. To provide a process for expeditious review of applications for Home Occupation Permits.
2. Review Required. Any proposed Home Occupation as defined by this Code shall require a Home Occupation Permit.
3. Permit Application. Applications shall be made on forms supplied by the Community Development Department.
4. Standards of Review. Any application for Home Occupation Permit shall meet the provisions of Section 711. Staff shall approve or deny an application for a Home Occupation within three (3) days of receipt, and may establish conditions in any or all of the following areas:
  - (a) Hours of operation
  - (b) Expiration dates
  - (c) Parking
  - (d) Signs
5. Appeals. Any interested person may appeal a decision regarding a Home Occupation Permit to the Board of Adjustment pursuant to Section 1702 below.
6. Expiration of Permit. Home Occupation approvals shall expire sixty (60) days from the date of approval if not implemented.

H. Approval of Signs

1. Intent and Purpose. The intent and purpose of this sign ordinance is as follows:
  - (a) To regulate advertising and identification signs in order to preserve, protect, and promote the public health, safety and general welfare.
  - (b) To recognize the business community's need for business identification and advertising and the similar need for a well-maintained and attractive appearance.
  - (c) To ensure that the public is not endangered or distracted by the unsafe, disorderly, indiscriminate or unnecessary use of signs.
  - (d) To protect property values in and between residential, commercial and industrial uses by reducing visual clutter and preventing blighting influences.
  - (e) To promote traffic safety by reducing visual distractions to motorists.
  - (f) To coordinate the type, placement and physical dimensions of signs within different zoning districts.
2. Sign Permits:
  - (a) No sign may be constructed, erected, moved, enlarged, illuminated or altered without a sign permit, except as specifically provided in this Code.
  - (b) Staff shall act to approve or deny all sign permit applications within three (3) working days of receipt of a complete application. The Planning Commission shall review and approve sign location associated with site plan applications being reviewed by the Planning Commission. All site plan applications before the Planning Commission shall include a sign for review unless a new or modified

sign is not part of the project. Staff shall review all sign permit applications that would not otherwise require review by the Planning Commission.

(c) Repainting or changing messages on a sign shall not, in and of itself, constitute an alteration of a sign. If plans submitted for a zoning permit include sign plans in sufficient detail to determine whether the proposed sign or signs comply with the provisions of this Code issuance of the requested Zoning Permit shall constitute approval of the proposed sign or signs if approval is specifically stated on the zoning permit.

(d) Sign Permit Applications:

(Applications shall be made by the owner of record, or authorized agent, and shall be issued to the owner of record.

(ii) Sign permit applications shall include a drawing to scale indicating the following:

(aa) The proposed sign.

(bb) All existing signs maintained on the premises.

(cc) A plan which designates setbacks and the location of the proposed sign; a building facade drawing and a landscaping plan if the sign is free-standing.

(dd) Specifications for wiring, construction, and lighting.

Drawings shall be of sufficient clarity to show the extent of the work.

3. Signs Allowed Without a Permit. Signs allowed without a permit under this paragraph shall be exempt from the provisions of Section 714 of this Code.

(a) Signs not exceeding two (2) square feet in area that are customarily associated with residential use, such as signs giving property identification names or numbers or names of occupants; signs on mailboxes or newspaper tubes; and signs posted on private property relating to private parking or warning the public against trespassing or danger from animals; home occupation signs pursuant to the standards as contained herein.

(b) Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification and informational signs, and traffic, direction, or regulatory signs.

(c) Official warning signs of a non-commercial nature erected by public utilities.

(d) Flags, pennants, balloons or insignia of non-profit or government organizations if not displayed as a commercial promotion or as an advertising device.

(e) Integral decorative or architectural features of buildings so long as such features do not contain letters, trademarks, motorized parts or lights.

(f) Signs prohibiting or restricting parking, or directing and guiding traffic on private property, not exceeding four square feet and with no advertising or logos.

(g) Church bulletin boards, church identification signs and church directional signs that are not internally illuminated, do not exceed sixteen (16) square feet in area and satisfy the following location limitations:

(i) The sign is not located less than ten (10) feet from a property line.

(ii) There is not more than one sign along any front lot line.

(h) Signs painted on or otherwise permanently attached to currently licensed motor vehicles which are clearly incidental to the customary use of the vehicle.

(i) Temporary signs pursuant to Section 714.

4. Appeals. Any interested person may appeal a decision regarding a sign to the Zoning Board of Adjustment in accordance with the provisions of Section 1702 below.
5. Expiration of Permit. A sign permit shall expire if not erected within one (1) year from the date of approval.

I. Approval of Accessory Apartments

1. Purpose. To provide a mechanism for Zoning Administrator ~~Commission~~ review and approval of proposals to create accessory apartments in any Residential District.
2. Review Requirement. Any accessory apartment shall be reviewed as specified by the procedures in this section.
3. Review Procedures. The zoning administrator may approve accessory apartments in accordance with the standards specified in Section 721. ~~within or attached to an existing single family home provided it meets all the required standards including but not limited to setbacks, sewage capacity, parking and is wholly within the existing footprint and/or envelope of the existing dwelling. The zoning administrator may defer any accessory apartment application to the Planning Commission for review and approval. Applications submitted for review by the Planning Commission shall be reviewed at a public meeting.~~
4. ~~Review Standards. All accessory apartments shall be reviewed under the standards specified in Section 721.~~
5. Submittal Requirements. Sufficient information shall be submitted to enable the ~~Commission~~ Zoning Administrator to determine the possible impact of the proposal on all abutting residentially-zoned properties. The following minimal requirements shall be met.
  - (a) A plot plan which shows all existing structures, dimensions and distances from structures to property lines.
  - (b) The location of existing and proposed parking.
  - (c) The location of existing and proposed landscaping and screening.
  - (d) A drawing showing the existing structure arrangement and proposed location and arrangement of the accessory apartments, including room dimensions and entrances.
6. ~~Conditional Waivers. The Commission may place conditions on any application deemed necessary to protect the residential character of the neighborhood.~~
7. ~~Effect of Approval. The Commission may stipulate time limitations on any approval. The following time standards shall apply, unless specified otherwise by the Commission.~~
  - (a) ~~Initial approval shall be for one year of occupancy. At the request of an abutter, a re-hearing shall be scheduled before the Planning Commission at the next available meeting. The abutter(s) who request a re-hearing shall present concrete evidence that conditions have not been met and that the approval should therefore be rescinded.~~
  - (b) ~~If no hearing request is filed by an abutter, the accessory apartment shall be approved for one additional year.~~
  - (c) ~~Alteration to the accessory apartment or failure to meet any Commission conditions shall void the permit.~~
8. Appeals. Any interested person may appeal a Zoning Administrator decision regarding a permitted use by filing an appeal in accordance with Section 1702. ~~Appeals. Any interested person may appeal a Planning Commission decision regarding an~~

**Commented [RM10]:** Should this really say "Staff" like it does in some of these other sections?

**Commented [RM11]:** These should not ever have to be reviewed by the Planning Commission. They should be treated just like a single family home.

**Commented [RM12]:** Deleted partially b/c its redundant, and partially because it's not in line with Section 721.

**Commented [RM13]:** All of this is deleted b/c the approval process should not be any more involved then a zoning permit application and approval for a single family home.

~~accessory apartment in accordance with the provisions of Section 1707 below.~~

9. Expiration of Approval. Approval of an accessory apartment shall expire ~~when the if a Zoning Permit expires~~ ~~application is not received within one (1) year from the date of approval.~~

**Commented [RM14]:** The approval in and of itself should be a Zoning Permit, just like a Single Family home.

J. Approval of Activities Regarding Nonconforming Uses

1. Review Requirement. Any use of land or buildings lawfully existing on the effective date of this Code which is not allowable under this Code in the District where it is located shall be considered a nonconforming use and may be maintained subject to the provision of Chapter 8.
2. Appeals:
  - (a) Any interested person may appeal a Staff decision regarding a nonconforming use to the Board of Adjustment in accordance with the provisions of Section 1702 below.
  - (b) Any interested person may appeal a Board of Adjustment decision regarding a non-conforming use in accordance with the provisions of Section 1706 below.
3. Expiration of Approval. Approvals regarding nonconforming uses shall expire if not implemented within one (1) year from the date of approval.

K. Approval of Activities Regarding Non-complying Structures

1. Review Requirement. Any structure, existing on the effective date of this Code, which does not conform to the dimensional requirements of this Code shall be considered as a non-complying structure. Such structure may continue to be occupied, subject to the provisions of Chapter 8.
2. Appeals. Any interested person may appeal a decision regarding a non-complying structure as specified in Chapter 17.
3. Expiration of Approval. Approvals regarding non-complying structures shall expire if a Zoning Permit application is not received within one (1) year from the date of approval.

L. Approval of Development Activities on Existing Small Lots. Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of this Code may be developed for the purposes permitted in the District in which it is located, even though not conforming to minimum lot size requirements ~~if such lot is not less than one eighth acre in area and has a minimum width or depth dimension of forty feet.~~ This provision shall not exempt development on such lots from other provisions of this Code.

**Commented [RM15]:** I'm deleting this because statute now says you can only prohibit development on lots this small (and smaller) if they can't be served by water & sewer. I assume all lots in EJ can be served by water and sewer, yes?

M. Planned Unit Development (PUD). Planned Unit Developments are intended to facilitate development of areas designated for residential, mixed, or single use on the general plan by permitting greater flexibility and, consequently, more creative and imaginative designs for the development of such areas than generally is possible under conventional zoning or subdivision regulations. These regulations are further intended to promote more economical and efficient use of the land while providing a harmonious variety of choices, a higher level of urban amenities, and preservation of natural and scenic qualities of open spaces.

1. Activities involving Planned Unit Development shall be reviewed in accordance with this section. An application for a Planned Unit Development shall be submitted and reviewed in accordance with the procedures of Section 511. A proposal for a Planned Unit Development must also be reviewed under

Section 723.

2. Review Standards. An application for a Planned Unit Development shall be reviewed under the applicable standards of Section 723.
3. Expiration of approval. An approval for a Planned Unit Development shall expire in accordance with terms set forth in the approval.
4. Appeal. Any interested person may appeal a decision of the Planning Commission regarding a Planned Unit Development in accordance with the procedures set forth in Section 1707 below.

N. Telecommunications

1. Authority. Pursuant to 24 V.S.A. § 4414(12), the Planning Commission shall have the authority to regulate construction, alteration, development, decommissioning and dismantling of Wireless Telecommunication Facilities in the Village of Essex Junction.
2. Purpose. The purpose of this bylaw is to promote the public health, safety, welfare, and convenience of the residents of the Village of Essex Junction, while accommodating the telecommunication needs of the Village's residents.
3. Consistency with Federal and State Law; Severability. This bylaw 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 bylaw is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this bylaw.
4. Permit Application Requirements. In addition to information otherwise required in the Village of Essex Junction's Land Development Code, applicants shall include the following supplemental information:  
Every Wireless Telecommunication Facility and Small Scale Facility permit application shall include:
  - (a) 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.
  - (b) The name, title, address and telephone number of the person to whom correspondence concerning the application should be sent.
  - (c) The name, address and telephone number of the owner or lessee of the property on which the Wireless Telecommunication Facility will be located.

A Small Scale Facility permit application shall also include:

A final site and building plan and, where applicable, a report indicating the structure's suitability for the telecommunications facility, and that the proposed method of affixing the antenna or other device to the structure complies with standard engineering practices. Complete details of all fixtures and couplings and the exact point(s) of attachment shall be indicated.

Every Wireless Telecommunications Facility permit application shall include:

- (a) The names and addresses of all adjoining property owners. Adjoining property owners shall be determined without regard to any public Right-of-way.
- (b) A vicinity map showing the entire vicinity within a thousand (1000) 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.

(c) 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 (2) mile radius of the proposed tower site.

(d) 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 one (1) inch = fifty (50) feet).

(e) In the case of a site that is forested, the approximate average elevation of the existing vegetation within fifty (50) feet of any tower base.

(f) Construction sequence and time schedule for completion of each phase of the entire project.

(g) A report from a qualified engineer that:

(i) Describes any tower's design and elevation,

(ii) Documents the elevation above grade for all proposed mounting positions for antennas to be collocated on a tower and the minimum distances between antennas,

(iii) Describes a tower's capacity, including the number, elevation and types of antennas that the tower is proposed to accommodate.

(iv) In the case of new Facilities, demonstrates that existing towers and structures within five (5) miles of the site cannot reasonably be modified to provide adequate coverage and adequate capacity to the community.

(v) Describes potential changes or additions to existing structures or towers that would enable them to provide adequate coverage.

(vi) 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.

(vii) Demonstrates the Facility's compliance with the standards set forth in this bylaw or other applicable standards.

(viii) 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).

(ix) Includes such other information as determined by the Planning Commission or Zoning Board of Adjustment to evaluate the application.

(h) 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.

(i) 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.

(j) 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.

5. Permit Required. Wireless Telecommunication Facilities may be permitted or conditional uses as indicated in the Use Chart in Section 620. 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 Zoning Administrator. Site Plan review by the Planning Commission is required for all Wireless Telecommunications Facilities, including Small Scale Facilities not exempted below.

6. Exemptions. No permit shall be required for a Wireless Telecommunication Facility or Small Scale Facility that:

- (a) Is used exclusively for municipal radio dispatch service or emergency radio dispatch service.
- (b) Is used solely for amateur radio activities as long as it is on the site of the business or home being served and is less than thirty six (36) feet in height, measured from grade.
- (c) Antennae and satellite dishes that do not exceed 1 meter in diameter or height. The height shall be measured from grade if mounted on the ground or from the top of the structure if mounted on an existing structure.

7. Independent Consultants. Upon submission of an application for a Wireless Telecommunication Facility permit, the Planning Commission 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 Planning Commission. The consultant(s) shall work at the Planning Commission's direction and shall provide the Planning Commission reports and assistance, as the Planning Commission deems necessary to review an application.

O. Master Plans

1. Purpose. To guide long-term development on larger properties and allow for public input early in the process as a means to limit ~~negative~~ impacts resulting from incremental planning and development. The master plan process is an opportunity to address the long-term vision and conceptual design for development of buildings, land uses, infrastructure and conservation/preservation through integrative design. Master plans are an opportunity to discuss early design concepts with the Planning Commission prior to the formal permitting process. A formal approval of the Master Plan by the Planning Commission is not a guarantee that the development moving forward will gain Planning Commission approval, rather it is an indication that the general concept of the Master Plan is in keeping with the Village's vision for the District moving forward. The Master Plan shall address the following:

- (a) Land uses;
- (b) Land subdivision;
- (c) Streets, parking, and open space;
- (d) Preservation of significant natural, historical or cultural features;
- (e) Stormwater management;
- (f) Urban form and urban design including the relationships between buildings, streets, open spaces, and parking areas;
- (g) Connections to adjacent areas and networks;
- (h) Significant natural and/or historic features; and

**Commented [JJ16]:** Consider some of the statutory definitions for timing of master plans such as 10 year periods. This comes up with CTE on their building projects. They are doing small lot developments exempted from master plan presentation. Other developers are purchasing multiple sites as well with undisclosed future plans that may be captured here.

**Commented [RM17R16]:** satisfied

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- (i) Development phasing.
2. Review Procedures. All Master Plans shall be reviewed by the Commission at a public meeting. Approval of a master plan is not a guarantee of future development approvals on the site.
3. Submittal Requirements:
  - (a) A map in plan view that addresses the items listed in Section 502.R.1.
  - (b) Supporting documentation to include:
    - (i) Land uses by gross building square footage
    - (ii) Total number of units by type and overall density
    - (iii) Amount of open space and uses
    - (iv) Building typologies
    - (v) Amount and location of parking
    - (vi) Vignettes, sketches, 3D models or other visual media to assist in representing the master plan proposal (optional or as required by the Planning Commission).
    - (vii) A statement describing the design intent for the master plan including the important physical relationships that influenced the proposed design including, but not limited to, natural features, connections, urban form, views, nodes, public transit, access and pedestrian mobility and connection to adjacent areas.

### **SECTION 503: SUBDIVISIONS**

- A. **Purpose.** To provide a mechanism for the timely review of applications for subdivision approval and to ensure that the development standards of this Code are met.
- B. **Classification.** Staff shall review each subdivision application and classify it as a lot consolidation, minor subdivision or major subdivision. An applicant may request that the Commission review the classification as determined by Staff. The classification criteria are as follows:
  1. Lot Consolidation or Boundary Adjustment. An application for a lot consolidation or boundary adjustment shall be reviewed and approved by staff.
  2. Minor Subdivision. A minor subdivision includes the platting of five (5) or fewer lots or minor adjustments to the lot lines of three (3) or more lots. A minor subdivision shall require Sketch Plan and Final Plat approval.
  3. Major Subdivision. A major subdivision is any proposal not classified as a Consolidation or Minor Subdivision. A major subdivision requires approval of a Sketch Plan, Preliminary Plat, and Final Plat.
- C. **Public Meetings/Public Hearings**
  1. An application for Sketch Plan Approval shall be considered by the Commission at a Public Meeting.
  2. Applications for Preliminary Plat or Final Plat approval shall be considered by the Commission at a public hearing.
  3. The applicant, or duly authorized agent, is encouraged to attend all meetings and hearings for review of the application. The Commission may delay action on any application if the owner/agent fails to attend scheduled meetings or hearings.

D. Waivers. Any request to waive or alter any requirement of this Code shall be made in writing at the time of application.

E. General Standards of Review. The Commission shall generally review all applications for neighborhood compatibility, effect on adjoining undeveloped land, public infrastructure impact and the general public health, safety, and welfare.

F. Concurrent Reviews. An application for Subdivision approval may be reviewed concurrently with an application for Site Plan, Planned Development, or Conditional Use approval. Concurrent review does not ensure that the applications will not be denied.

G. Effects of Approval or Denial. Final approval of a subdivision authorizes the applicant to apply for any development permit required by this Code.

H. Application Submittal Requirements. Applications submitted for approval shall contain the material specified below. In addition, any request to alter or waive any Code requirements shall be included in writing as a part of the application.

1. Lot Division or Lot Consolidation. An application for a Lot Division or Lot Consolidation shall include the following:

- (a) Written request to waive or alter any requirement of this Code, if any.
- (b) A survey certified by a surveyor licensed to practice in the State of Vermont.
- (c) The location of existing and proposed lot lines.
- (d) Certification and signature of the owner(s) of record.
- (e) The location of all existing or proposed structures and distance between structures and lot lines.

2. Boundary Adjustments. An application for approval of a Boundary Adjustment shall include two reproducible drawings suitable for filing in the land records which shall meet the requirements of 27 VSA 1403 and two copies of a survey prepared by a licensed surveyor which depicts the two lots with the adjusted boundary and the following endorsements:

"Boundary Adjustments, approved by the Village of Essex Junction on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, meets all Village Code requirements. Signed this \_\_\_ day of \_\_\_\_\_, 20\_\_\_  
By \_\_\_\_\_, Title \_\_\_\_\_

3. Sketch Plan. An application for Sketch Plan approval shall be submitted prior to submission of a Preliminary Plat. The Commission shall review the sketch plan to determine general compliance with this Code and good urban design techniques. These techniques include but are not limited to designs that do the following: maximize open space and connectivity, are economically viable in the long term, are cohesive with existing surroundings, are connected to the landscape, and are environmentally conscious. The Commission shall prepare written findings which clearly express the results of their review of an application. Sketch Plan approval authorizes the applicant to proceed with the Subdivision process. However, Sketch Plan approval does not guarantee Preliminary or Final Plat approval, if further investigation reveals that engineering or design standards cannot be met. An application for Sketch Plan approval shall include the following:

- (a) A survey of the subdivision site certified by a surveyor licensed to practice in the State of Vermont.
- (b) Approximate location of existing and proposed lot lines and area of the property to be subdivided.
- (c) Name, address, and signature of the owner of record.
- (d) The general location of all existing or proposed structures and distance between structures and lot lines.
- (e) General description of proposed engineering techniques for stormwater management using AutoCAD for input and output calculation and phosphorus removal calculation or use of STP calculator found on DEC website.
- (f) Proposed method to provide water and sewer service.
- (g) Approximate location of existing and/or proposed easements.
- (h) Approximate location of any land proposed to be donated to the Village.
- (i) Approximate location of any land to be held in common ownership.
- (j) Proposed method to ensure maintenance of any common improvements or lands in common ownership.
- (k) General description and proposed methodology for analyzing traffic impact if deemed necessary by Commission.
- (l) Other information as necessary to fully inform the Commission of the extent of the development.

(m) Whenever a proposed subdivision is adjacent to a State highway, the application for subdivision approval shall include a letter from the Agency of Transportation confirming that the Agency has reviewed the proposed subdivision and determined whether a permit is required under 19 V.S.A. § 1111. If the Agency determines that a permit for the proposed subdivision is required under 19 V.S.A. § 1111, then the letter from the Agency shall set out any conditions that the Agency proposes to attach to the permit required under 19 V.S.A. § 1111.

4. Preliminary Plat. Approval of a Preliminary Plat authorizes the applicant to make application for Final Plat approval. The Commission shall prepare written findings which identify any conditions of approval or other recommendations of the Commission. The Commission shall issue its decision and findings within forty-five (45) days of the completion of the meeting at which it was reviewed unless the application was continued. The findings may require submittal of additional information to the Commission or Staff prior to acceptance of an application for Final Plat approval. An application for Preliminary Plat approval shall include the proposed plat and a written statement providing any required information which is not on the proposed plat. At a minimum, the following information is required.

- (a) A vicinity map which shows the site in relation to surrounding property and adjacent zoning/land use.
- (b) The location and boundary lines of the subdivision and all proposed lots and a map or statement describing contiguous property in which the owner has an interest.
- (c) The name, location and width of existing or proposed streets or right of ways within and contiguous to the proposal. For proposed streets, the application shall include plan, profile and grading plan and clear identification of those streets intended proposed to be turned over to the Municipality.
- (d) The location and size of sewers, water mains, storm drains, and other infrastructure within or contiguous to the proposal. The location of any above ground

**Commented [RM18]:** Change above too.

**Commented [RM19R18]:** Done

**Commented [RM20]:** New statutory change, may not need last sentence in all of these sections.

utilities or facilities including fire hydrants. Provide clear identification of those streets intended proposed to be turned over to the Municipality. The applicant shall submit all calculations supporting the storm water system design and fire flow requirements.

- (e) The location and width of all proposed and existing easements.
- (f) The location and type of lighting fixtures.
- (g) Topographic survey with contour at no more than two (2) foot intervals by a surveyor or engineer licensed to practice in the State of Vermont.
- (h) The approximate location of existing trees, or tree groupings, excessive slopes, wetlands, waterways and significant natural features within 200 feet of the proposed development.
- (i) The location and dimensions of all lots and the square footage of each.
- (j) The location and dimensions of parks or open land under common ownership or land proposed for dedication to the Village.
- (k) The location and dimensions of any buffer or screening area, including the location and height of proposed fencing and/or hedges.
- (l) The location, dimensions, and construction material of all sidewalks, pedestrian ways, and bikepaths.
- (m) Identification of any proposed development phasing recommended or required by Sketch Plan approval.
- (n) Traffic impact study if required by the Commission.
- (o) Written description of the proposed design concept.
- (p) Other material as required by the Commission as a condition of Sketch Plan approval.

(q) Whenever a proposed subdivision is adjacent to a State highway, the application for subdivision approval shall include a letter from the Agency of Transportation confirming that the Agency has reviewed the proposed subdivision and determined whether a permit is required under 19 V.S.A. § 1111. If the Agency determines that a permit for the proposed subdivision is required under 19 V.S.A. § 1111, then the letter from the Agency shall set out any conditions that the Agency proposes to attach to the permit required under 19 V.S.A. § 1111.

**Commented [RM21]:** New statutory change, may not need last sentence in all of these sections.

5. Final Plat. No Final Plat shall be submitted which is not in substantial compliance with the Preliminary Plat and any conditions of approval of the Preliminary Plat. The Commission shall, within forty-five (45) days of the meeting, approve, modify and approve or disapprove such plat, unless the application was continued. The grounds for disapproval and/or any conditions to approval shall be included in a written notice of decision. A Final Plat shall conform to all Public Works Specifications and shall include the following:

- (a) Two (2) reproducible drawings which meet the requirements of 27 VSA 1403 which are suitable for recording in the land records. The scale shall be of sufficient size to show all detail and shall be stated and graphically illustrated on every sheet depicting any of the lands subdivided. A north arrow shall appear on each sheet.
- (b) The name of the subdivision shall appear on each sheet. All streets shall be clearly named.
- (c) Each plat shall be surveyed with all property boundaries clearly marked. Each lot shall be clearly numbered and all property boundaries clearly delineated.

(d) The property description sufficiently complete so that, without reference to the plat, the starting point and all boundaries of the subdivision can be located.

(e) Permanent Control points shall be shown on the Plat and tied to the Vermont Coordinate system NAD83 as defined in VSA1, Chapter 17, Section 671-679. The surveyor shall certify that the Permanent Control points have been set and the date that they were set.

(f) GIS Geospatial data shall be provided in. Geodatabase or shape file in VT State Plane Meters NAD83 (NSRS or most current) Coordinated DAD data- Vermont State Plane Coordinates, US Survey Feet, Grid Zone 4400, NAD 83(2011) epoch 2010.0, NAVD 88 (geogrid12b) Supply 3 values of state plane coordinates on the plans.

**Commented [JJ22]:** updated information in order of preference from Shannon Lunderville. Some version references may need to be updated

**Commented [RM23R22]:** RM check with Shannon on how she wants this worded.

**Commented [RM24R22]:** Edit so it makes sense.

(f) Location, width, and names of all streets, waterways, or other right of ways shall be shown.

(g) Location and width of all easements shall be shown.

(h) All lot and subdivision lines shall clearly show dimensions, curvature and radii. Curvilinear lots shall show the radii, arc distances, and central angles or radii, chord, and chord bearing, or both. Radial lines will be so designated. Direction or non-radial lines shall be indicated.

(i) The centerline of all streets shall be shown with distance, angles and bearings.

(j) Any areas dedicated or donated to the Village shall be clearly designated with distance, angles and bearings.

(k) A licensed land surveyor shall include a certification signed and sealed on the plat.

(l) Whenever a proposed subdivision is adjacent to a State highway, the application for subdivision approval shall include a letter from the Agency of Transportation confirming that the Agency has reviewed the proposed subdivision and determined whether a permit is required under 19 V.S.A. § 1111. If the Agency determines that a permit for the proposed subdivision is required under 19 V.S.A. § 1111, then the letter from the Agency shall set out any conditions that the Agency proposes to attach to the permit required under 19 V.S.A. § 1111.

**Commented [RM25]:** Do you want this here as well? Not sure if you want this mentioned at every stage. New statutory change, may not need last sentence in all of these sections.

6. Construction Drawings. Construction drawings shall be submitted with all Final Plat applications. The construction drawings shall include engineering details of all improvements to the property. Sufficient detail shall be provided to allow review and inspection of the subdivision during construction. The Village shall have the authority to request additional details as necessary to review the plans for conformance to this Code, accepted engineering practice, and other standards or guidelines which may hereafter be adopted.

7. As-Built Plans. As-built Plans shall be submitted within six (6) months of the completion of the subdivision or phase thereof. Final inspection shall not occur prior to receipt of as-builts. The Village shall not accept any street or other public improvements for maintenance prior to submittal of as-built plans. All deeds and easements needed for transference of roads and/or infrastructure to the municipality shall be submitted to the Community Development Department for review and consideration of processing to the Trustees for acceptance. The applicant shall submit one set of reproducible drawings suitable for recording in the land records.

**Commented [JJ26]:** duplicate to the similar comment below. CCRPC may have suggested location and wording for this important step.

**Commented [RM27R26]:** Draft legal documents should be submitted much earlier in the process and reviewed by the Town Attorney prior to final PC approval.

**Commented [RM28R26]:** Post construction, I'm familiar with not accepting any infrastructure until it has been in the ground for 2 or 3 years and proves well constructed. What is the process/timeline in the Village?

**Commented [RM29]:** Same comment as above. Need to think through what the existing process is and codify that or suggest changes if it isn't currently working.

8. Warranty Deed of Easement documents, Easements for infrastructure access and maintenance to be being taken over by the Village shall be submitted as a condition of

**Commented [RM30R29]:** RM edit this to include that the legal documents need to be in hand/recorded before a CO is issued.

**Commented [RM31R29]:** Also put this under application submittal sections, not just at the end.

~~getting the CO. with 6 months of the completion of the subdivision or phase thereof to be recorded into the land records.~~

I. Time Limitations

1. Sketch Plan. Within one (1) year of approval of a Sketch Plan, a Preliminary Plat shall be submitted for review by the Commission. If application for a time extension is received prior to the Preliminary Plat submittal date, staff may approve a time extension not to exceed six (6) months.

2. Preliminary Plat. Within one (1) year of approval, a Final Plat shall be submitted for review by the Commission. If application for time extension is received prior to the Final Plat submittal date, the Commission may approve a time extension not to exceed six (6) months. Failure to submit a Final Plat or request a time extension shall negate Sketch Plan approval.

3. Final plat. Construction shall commence on any Final Plat approved within two (2) years of approval. Failure to initiate construction shall negate Final Plat approval and the applicant shall reapply for Subdivision approval. The Commission may grant an extension of up to two (2) years if the applicant demonstrates diligent pursuit of financing or other permits and demonstrates inability to control the delay.

J. Consolidated Applications. Applicants may request that the Commission consider applications for Sketch Plan Approval, Preliminary Plat approval and/or Final Plat Approval simultaneously with a single application. The Commission, however, may determine that separate reviews are required.

K. Filing of Approved Subdivision Final Plat. The approval of a final Subdivision Plat shall expire in ninety (90) days, unless the plat has been duly recorded by the applicant with the office of the Essex Town Clerk with a copy provided to the Town Assessor. No plat shall be recorded with the Town Clerk until it has been approved by the Commission, and such approval is endorsed in writing on such plat by the Commission Chair or Clerk. Endorsement shall not take place until all required plats, construction drawings and supporting documents have been submitted to Staff and determined to be complete and accurate. If submittals are not complete and accurate within ninety (90) days, the subdivision approval shall be void and the application shall be resubmitted for final approval.

L. Plat Void if Revised after Approval. No changes, erasure, modification, or revision shall be made on any subdivision plat after approval has been given by the Commission and endorsed in writing on the plat, unless said plat is first resubmitted to the Commission for approval of such modifications after public hearing with the exception of boundary adjustments pursuant to Section 503B. If such subdivision plat is recorded without complying with this requirement, the plat shall be considered null and void. Any change in a previously approved and recorded subdivision plat shall be resubmitted for approval pursuant to this Code.

M. Appeals.

1. Any interested person may appeal a Planning Commission decision regarding a subdivision by filing an appeal in accordance with the procedures of Section 1707 below.

2. Any interested person may appeal a Staff decision classifying a subdivision by appealing to the Planning Commission pursuant to Section 1704 below.

**SECTION 504: APPROVAL OF ACTIVITIES INVOLVING PUBLIC SEWERS**

- A. Review Requirement. Activities involving uncovering or making any connections with or openings into, or using, altering, or disturbing any public sewer or appurtenance thereof, or proposing a new discharge into a public sewer or a substantial change in the volume or character of pollutants that are being discharged into such sewer shall require review in accordance with the procedures of this section.
- B. Review Standards. Activities reviewed under this section shall comply with the standards set forth in Chapter 11.
- C. Application Requirements. Applications for the connection of one (1) single family home shall require a plan prepared by a certified site technician. Applications for the connection of any use or structure other than one (1) single family home shall require a plan prepared and stamped by a registered engineer certified to practice in the State of Vermont.
- D. Review Procedures. Staff shall review all applications for completeness within three (3) days of receipt. The Public Works Superintendent shall review and approve, approve with conditions, or deny within ~~seven (7) days.~~ ten (10) thirty (30) working days.
- E. Appeals. Any interested party may appeal a decision of the Director to the Trustees in accordance with the provisions of Section 1705.
- F. Expiration of Approvals. Approvals shall expire one (1) year from the date permits are issued. Any sewer capacity granted will expire in 3 years.

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Commented [JJ32]: Consider modification to include duplex units as previously defined and considered in the same realm of a single family home? The cut off seems to be duplex units throughout the balance of the LDC.

Commented [RM33R32]: Sounds like an excellent idea to me. And I would add ADUs into that too.

Commented [RM34R32]: Circle back to Jim.

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Commented [RM35]: Who should this be? Who issues it? Is it a ZP? Water Quality Superintendent?

**SECTION 505: APPROVAL OF ACTIVITIES INVOLVING PRIVATE SEWERS**

- A. Review Requirement. Activities involving construction of a private sewage disposal system or private sewer or connection to any such system shall require review in accordance with the procedures of this section.
- B. Review Standards. Activities reviewed under this section shall comply with the standards set forth in Chapter 11.
- C. Review Procedures. All applications for private sewers shall be reviewed by the Commission and approved by the Trustees.
- D. Appeals. Any interested party may appeal a decision regarding a private sewer as specified in Chapter 17.
- E. Expiration of Approvals. Approvals shall expire one (1) year from the date permits are issued. Any sewer capacity granted will expire in 3 years.

**SECTION 506: APPROVAL OF WAIVERS TO STANDARDS OF SECTION 718.B**

- A. Review Required. Activities involving the conduct of a circus, carnival, menagerie, entertainment, concert, exhibition or similar activity shall be reviewed in accordance with the



procedures of this section.

- B. Review Standards. Activities reviewed under this section shall comply with the standards set forth in this Code.
- C. Review Procedures. Staff shall review all applications to determine necessity of waivers under the provisions of this Code.
- D. Appeals/Waivers. The Trustees shall review all waiver requests. Waivers may be granted for one event or for multiple events. The Trustees may authorize waivers for the same activity on one or more occasions, or for one or more years.
1. Upon written request, the Trustees may grant a waiver from the provisions of Section 718.B for any activity which has received approval required herein, and:
    - (a) Is a type of activity which cannot comply with the standards of this Code.
    - (b) Can not occur at a time when the activity would comply with the standards of this Code.
    - (c) Is a non-routine activity which is proposed to occur for a specified period of time.
  2. When granting a waiver under this Section, the Trustees may attach reasonable conditions to minimize the impact of the waiver on adjoining properties. Such conditions may include but are not limited to:
    - (a) The time in which the activity may occur;
    - (b) Maximum sound limits which may not be exceeded;
    - (c) The posting of a bond to insure compliance with the terms of the waiver; and
    - (d) Requirements to use particular equipment or procedures to minimize sound.
    - (e) Hours of operation.
- E. Appeals. An individual who proposes an activity which Staff determines will result in sound in excess of the standards of Section 718.B may appeal such decision to the Board of Trustees in accordance with the procedures of Section 1705.

#### **SECTION 507: APPROVAL OF ACTIVITIES INVOLVING PUBLIC WATER LINES**

- A. Review Requirement. Activities involving uncovering or making any connections with or openings into, or using, altering, or disturbing any public water line or appurtenance thereof shall require review in accordance with the procedures of this section.
- B. Review Procedures and Standards. The Public Works Superintendent shall review and approve, approve with conditions, or deny within ~~seven (7)~~~~ten (10)~~thirty (30) days an application to construct or connect to a public water line. The Director shall review an application under the standards set forth in Chapter 14.
- C. Expiration of Approvals. Approvals shall expire one (1) year from the date permits are issued. Any water capacity granted will expire in 3 years.
- D. Appeals. An applicant for approval under this Section may appeal a decision of the Public Works Superintendent to the Board of Trustees in accordance with the provisions of Section 1705.

**SECTION 508: APPROVAL OF ACTIVITIES INVOLVING PRIVATE WATER SUPPLY**

- A. **Review Requirement.** Activities involving use of a private water supply or construction of or making any connections with or openings into, or using, or altering any private water line shall require review in accordance with the procedures of this Section.
- B. **Review Procedures and Standards**
1. An application to establish a private water supply shall be submitted to the Board of Trustees for its review at a regular or special meeting. The Board may approve the application if it meets the standards of Section 1416. The decision of the Board shall be final.
  2. The Public Works Superintendent shall review and approve, approve with conditions, or deny within seven (7) days an application to construct or connect to a private water line. The Director shall review an application under the standards set forth in Section 1416.
- C. **Expiration of Approvals.** Approvals shall expire one (1) year from the date permits are issued.
- D. **Appeals.** An applicant for approval of a private water line under this Section may appeal a decision of the Public Works Superintendent to the Board of Trustees in accordance with the provisions of Section 1705.

**SECTION 509: ACTIVITIES INVOLVING ACCESS TO PUBLIC ROADS**

- A. **Review Required.** Activities involving opening, constructing, or reconstructing any driveway, entrance, or approach into a public road Right-of-way; obstructing, altering, or changing a ditch, culvert, or drainage course that drains a public roadway; depositing material or placing improvements in a public Right-of-way; or altering lands adjacent to a public Right-of-way to divert surface waters onto the Right-of-way shall require review in accordance with the procedures of this Section.
- B. **Review Procedures and Standards**
1. Except as provided in subsection 2, below, an application for any activity regulated under this Section shall be submitted to the Board of Trustees for its review at a regular or special meeting. The Board of Trustees shall review the application under the standard set forth in Section 705. The decision of the Board of Trustees shall be final.
  2. Board of Trustee approval for any activity regulated under this Section shall not be required if such activity is reviewed by Staff, the Commission or the Board of Adjustment under the provisions of Chapters 6, 7 or 9 of this Code.
  3. The Board of Trustees may revoke or modify any approval authorizing any activity regulated under this Section after sending written notice of intent to take such action to any affected property owner. The Board of Trustees shall consider such action at a regular or special meeting of the Board of Trustees and provide any affected property owner notice of such meeting and an opportunity to present information at such meeting. The Board of Trustees shall review such proposed action under the standards set forth in

Section 705. The Board of Trustees shall render its decision in writing, which decision shall be final. The Board of Trustees shall send a copy of the decision to any affected property owner.

C. Application Requirements.

1. A scale drawing showing existing and proposed curb cuts including dimensions and radii.
2. A statement describing the purpose of the proposed curb cut changes.
3. Name and address and telephone number of applicant and any professional consultants.

D. Expiration of Approvals. Approvals shall expire one (1) year from the date of approval.

**SECTION 510: ISSUANCE OF CERTIFICATES OF OCCUPANCY**

A. Purpose. To provide a mechanism for Staff review of all applications for Certificates of Occupancy to ensure that all Code requirements and development conditions are satisfied prior to occupancy of any structure.

B. Requirement for Certificate of Occupancy. No building hereafter erected, and no building hereafter altered, which is vacant during the process of alteration, shall be occupied or used, in part or in whole, until a Certificate of Occupancy has been issued certifying that the building conforms to all approved plans and specifications, and to all provisions of this Code. If a previously occupied building undergoes a change of use, a new Certificate of Occupancy must be reviewed and issued by Staff.

C. Temporary Certificate of Occupancy. Upon request of the owner or his agent, a Temporary Certificate of Occupancy may be issued for occupancy of part of a building, provided that such temporary occupancy would not in any way jeopardize life or property.

D. Requirements. Prior to issuance of a Certificate of Occupancy, the owner or his agent shall provide Staff with evidence that a water meter has been installed (if needed) and that the building conforms to all approved plans and specifications, and to all provisions of this Code. Staff may inspect the building to verify that all requirements are satisfied.

**SECTION 511: GENERAL REVIEW PROCEDURES FOR PLANNED UNIT DEVELOPMENTS**

A. Purpose. To provide a procedure for the timely and efficient review by the Commission of any proposals for Planned Unit Developments. Planned Unit Development review is intended to combine subdivision and site plan review into a unified process. This Section is intended to supplement the procedures set forth in Section 502 above and shall be reviewed under the applicable standards of Section 723.

B. Review Requirements and Review Standards. With the exception of applications for Exposition Center PUD's, the review of applications for a Planned Unit Development approval shall include review of a Conceptual Plan and review of a Final Development Plan. Review of a Preliminary Development Plan between Conceptual Plan review and Final Development Plan

**Commented [JJ36]:** consider inserting items noted in subdivision section here OR some centralized section that contains all stated in one section with any exceptions noted by class of project.

**Commented [RM37R36]:** Why is there this section and 502.M? Can these be combined.

submittal is optional but highly recommended. Where applicable, Site Plan Approval is also required. All applicable site plan information as outlined in Section 502.F shall be submitted with all final development plans.

1. General Review Standards
  - (a) Physical characteristics of the site and relation to surrounding properties.
  - (b) Relationship to major transportation facilities, including mass transit, walkways and bike paths.
  - (c) Design characteristics of the proposal and compatibility to adjoining developed land.
  - (d) Unique design or land planning characteristics.
  - (e) Methods used to provide a transition between adjoining uses and proposed uses including, but not limited to, setbacks, screening, fencing, building design and parking design.
  - (f) The preservation of unique natural physical characteristics.
  - (g) Building design compatibility with adjoining structures.
  - (h) Other criteria, as deemed necessary by the Commission to evaluate the merits of a specific proposal.
2. Specific Review Standards
  - (a) Proposed traffic flow and circulation design.
  - (b) Design compatibility with adjoining developed properties.
  - (c) Scale and design of proposed structures.
  - (d) Location and setbacks of all proposed structures.
  - (e) Unique physical characteristics of the proposed use.
  - (f) Unique characteristics of the proposed use.
  - (g) Use of innovative techniques, including but not limited to, clustering, Zero Lot Lines development, purchase/leaseback arrangements, and the provision of amenities including biking and hiking trails.
3. Waivers. The Commission may waive requirements for lot coverage, setbacks, parking and height based upon the merits of the specific proposal. Waivers shall be based upon the following criteria and may include specific conditions.
  - (a) Unique physical characteristics of the site proposed for development.
  - (b) Superior building design, lot layout and landscaping design.
  - (c) Provision of public open spaces or superior bicycle and pedestrian access.
  - (d) Joint or combined vehicular access with adjoining properties.
  - (e) Waiver of building height in Light Industrial District only.

C. Conceptual Plan. A Conceptual Plan review is required to discuss initial project feasibility and to give the applicant the right to proceed. Detailed engineering studies are not required but sufficient data shall be submitted to enable the Commission to review the merits of the proposal.

1. Review of a Conceptual Plan shall require a public hearing.
2. The Commission may approve or deny a Conceptual Plan, and may make suggestions to be included when the Preliminary or Final Development Plan is prepared.
3. Approval of a Conceptual Plan authorizes the applicant to proceed to the next steps of the approval process, but does not commit the Commission to further approvals.
4. Submittal requirements. The Conceptual Plan application shall include sufficient information to enable the Commission to review the merits of the application and to determine that all Code standards will be met. At a minimum, the submittal shall

include:

- (a) The project name, address and legal description; name, address and telephone number of the developer and project design professionals.
  - (b) The approximate location of all proposed land uses including the number of dwelling units and/or the number, type and typical square footage of non-residential buildings, and total square footage of the project.
  - (c) The proposed height and number of stories of each building.
  - (d) A sketch of a typical structure.
  - (e) The approximate location of proposed roads, parking areas, sidewalks, bikeways, fire lanes and other proposed circulation elements and patterns.
  - (f) A landscape concept showing typical planting schemes, types of planting materials and general locations of major landscaping items such as berms, ponds, retaining walls or other man-made improvements.
  - (g) The approximate location and size of proposed curb cuts on public or private streets, and the size and type of all interior curb cuts.
  - (h) The approximate location and size of all common improvements, common open space and lands to be dedicated to public ownership.
  - (i) An estimate or projected use of public infrastructure, including a preliminary statement regarding traffic, sewer and water demand impacts.
  - (j) Information on surrounding properties, including land uses, zoning, ownership and traffic patterns.
  - (k) The height, size, location and typical sketches of proposed signs and fencing, if any.
  - (l) A preliminary analysis of drainage proposals, including a topographical map of the project area.
  - (m) An indication of proposed setbacks and minimum distances between proposed structures.
  - (n) A written request for any waivers to any standards contained in this Code, along with a justification for the request.
  - (o) Any other information deemed pertinent to the review of the specific Conceptual Plan.
5. Preliminary Development Plan. Preliminary Development Plan approval is optional except where specifically required herein. All applicants for Planned Development approval are encouraged to seek Preliminary Development plan approval.
- (a) Review of a Preliminary Development Plan by the Commission does not require a Public Hearing.
  - (b) Approval of a Preliminary Development Plan authorizes application for Final Development Plan, but does not commit the Commission to final approval.
  - (c) Submittal Requirements.
    - (i) A statement indicating that the proposed Planned Development is in accord with previous approvals, as applicable.
    - (ii) A site plan, drawn to scale, and a boundary certified by a land surveyor licensed to practice in the State of Vermont. The site plan shall show the location of all improvements and the location and size of all infrastructure.
    - (iii) If the project is to include common open space or common improvements, provide specification of ownership and responsibility for maintenance of such commonly owned features.

- (iv) The location and dimensions of all easements.
  - (v) Engineering reports as may be required to show conformance with this Code.
  - (vi) A proposed phasing schedule, if required by the Commission, and estimated construction period.
  - (vii) A detailed landscape plan by a landscape design professional shall specify the type, size, quantity and location of all plant materials, existing and proposed.
6. Final Development Plan.
- (a) Approval of a Final Development Plan authorizes the applicant to proceed with applications for all other development permits.
  - (b) Review of a Final Development Plan shall require a Public Hearing.
  - (c) Submittal Requirements.
    - (i) All submittal requirements specified in this Code for a Preliminary Plan review.
    - (ii) A Final Plat, as applicable, and a phasing schedule as required by the Commission.
    - (iii) A survey of the property prepared by a licensed Land Surveyor.
    - (iv) A topographic map showing final ground contours at two (2) foot maximum intervals.
    - (v) Architectural rendering of typical structures.
    - (vi) Final engineering designs for infrastructure or other improvements.
    - (vii) A statement certifying that the development meets all applicable provisions of this Code.
  - (d) Each application shall be reviewed on an individual basis in accordance with the provisions of the District in which the property is located. The application must comply with the specific standards set forth in Chapter 6 for that type of Planned Development. In general, the Commission shall consider the effects of the proposal on the surrounding neighborhood, public infrastructure and potential development of adjoining property.
  - (e) Conditions. The Commission may place conditions on any approval as necessary to ensure quality development and to limit potential negative effects of the proposal. A Planned Development may be approved in phases and may require construction within a specified time frame. Conditions shall be in accordance with the District within which the project is located and specific standards herein.
7. Amendment Procedures. Applications may be submitted to amend an approved Planned Development. Staff shall review any application and classify the proposal as follows:
- (a) Major Amendment. A major amendment requires submittal of a new Conceptual Plan and review by the Commission at a Public Hearing. The following changes at any stage of a Planned Development approval, or following approval, constitute major amendments.
    - (i) Any change in the proposed land use or uses which would require different standards of review, or substantial change in occupancy of commercial uses which would alter traffic and parking needs or building design.
    - (ii) Any change in the street pattern which would impact adjoining streets.

- (iii) Any increase in overall density or intensity of use within the Planned Development if that increase exceeds:
  - (aa) Ten (10) percent of the approved number of dwelling units or ten (10) dwelling units, whichever is less;
  - (bb) Ten (10) percent of the approved square footage or two thousand (2,000) square feet for commercial buildings, whichever is less;
  - (cc) Any other proposed changes which Staff determines will substantially alter the design or negate the intent of the Plan as approved by the Commission.
- (b) Minor Amendment. A minor amendment requires review by the Commission at a public meeting unless the proposed amendment alters an approved subdivision in which case a public hearing shall be required. The following changes constitute minor amendment.
  - (i) Any increase in density or intensity which do not qualify as a major amendment.
  - (ii) A decrease in setbacks beyond what is required for the district in which the project is located.
  - (iii) An increase in height or number of stories of one or more buildings.
  - (iv) Minor changes in the approved street pattern.
  - (v) Any decrease in the size of designated open spaces or recreation areas.
  - (vi) Any decrease in the number of parking spaces or loading/unloading spaces.
  - (vii) Any decrease in the amount of landscaping to be provided.
  - (viii) Any change in the phasing plan.
  - (ix) Any other change which Staff determines to not be either a major amendment or a minimal amendment.
- (c) Minimal Amendment. Minimal amendments shall be reviewed and approved by Staff. The following changes constitute minimal amendments.
  - (i) Any reduction in density or intensity of use.
  - (ii) Any changes in setbacks which do not violate the standards of the District in which the project is located.
  - (iii) Any changes in the location of landscaping, fencing, signage or sidewalks, or other changes which Staff determines to be insignificant.
  - (iv) Any changes in land uses which do not impact parking or circulation patterns.
  - (v) Any minor additions that do not add more than five hundred (500) square feet to any structure and which do not significantly alter the architectural appearance of the project.

**SECTION 512: APPROVAL OF ACTIVITIES INVOLVING A NEW CONNECTION TO THE PUBLIC STORM DRAINAGE SYSTEM**

- A. **Review Requirement.** Activities involving the uncovering or making any connections with or openings into, or using, altering, or disturbing any public storm drainage system or appurtenance thereof, or proposing a new discharge or a substantial change in the volume into a public storm drainage system shall require review in accordance with the procedures of this section.

- B. Review Standards. Activities reviewed under this section shall comply with the standards set forth in Section 713 of this Code.
- C. Application Requirements. Development of any use, structure, filling activity or redevelopment activity that would increase stormwater runoff off the property shall be connected to the Village stormwater system. The Village Engineer may require that the applicant provide additional information including:
1. Pre-development and post-development drainage calculations for a two (2), ten (10), and twenty-five (25) year design stormwater flow-
  2. On-site drainage improvements and best management practices focused on GSI Green Stormwater Infrastructure including, but not limited to: rain gardens, buffer strips, filter strips, grass ~~swales~~, swales, infiltration basins or other infiltrating practices ~~rain barrels~~. Permeable pavement systems, cisterns or other structural/ non-structural best management practices are also deemed appropriate for consideration.
  3. A downstream analysis, if determined necessary by current or proposed local or state processes including, but not limited to, Total Maximum Daily Load (“TMDL”).
  4. Projects requiring a State stormwater permit may submit a copy of the issued State permit with supporting documentation and HydroAutoCAD calculations for consideration of compliance with the requirement for a Village stormwater management plan. Such properties may include properties greater than ~~one (1)~~ 0.5 acre in size and industrial facilities regulated under the Multi Sector General Permit requirements (MSGP).
  5. Projects requiring further review as determined by State issued watershed permitting or TMDL (if applicable) may require further improvement to mitigate stormwater flows as part of any related permits.
- D. Review Procedures. Staff shall review all applications for completeness within three (3) days of receipt. The Public Works Superintendent or Water Quality Superintendent or their designee shall act on all applications within seven (7) days.
- E. Appeals. Any interested party may appeal a decision regarding a public storm sewer connection as specified in Chapter 117 of Title 24.
- F. Expiration of Approvals. Approvals shall expire one (1) year from the date permits are issued, if not implemented.

### **SECTION 513: APPROVAL OF ACTIVITIES INVOLVING THE CONSTRUCTION OF A STORMWATER SYSTEM**

- A. Review Requirement. Activities involving construction of a stormwater system other than the public storm drainage system, or connection to any such system, shall require review in accordance with the procedures of this section.
- B. Review Standards. Activities reviewed under this section shall comply with the standards set forth in this Code.
- C. Application Requirements.
1. Applications for activities involving the construction of a stormwater system must

**Commented [JJ38]:** One acre now, 0.5 acres in a few years, With the turn around cycle on LDC Changes, do 0.5 Ac now???

**Commented [CM39R38]:** The ANR rule goes into effect next July 2022 so we should make this change now



include a stormwater management plan indicating how the performance requirements and operation and maintenance requirements set forth in this Code will be met. The application shall also identify the legal entity to own and maintain the non-municipal portions of any stormwater system proposed.

2. Compliance with this section of the Land Development Code may be met by agreeing to maintain best management practices for small construction sites as outlined in “The Low Risk Site Handbook for Erosion Prevention and Sediment Control” or “The Erosion Prevention and Sediment Control Field Guide.” Both documents are available for download at: [http://www.anr.state.vt.us/dec/waterq/stormwater/htm/sw\\_cgp.htm](http://www.anr.state.vt.us/dec/waterq/stormwater/htm/sw_cgp.htm) The complexity and details of the plan submitted may vary depending on the extent of the project, the site development proximity to water courses, the size of the project, etc.

3. Projects requiring a State stormwater permit may submit a copy of the issued State permit with supporting documentation including all data needed to document phosphorus loading and reduction based on watershed (on the VT DEC BMP Tracking Table spreadsheet). This will serve as evidence of compliance with the requirement for a Village of Essex Junction stormwater management plan and phosphorus control plan-

D. Design Practices. If Low Impact Design (LID) and/or Green Stormwater Infrastructure (GSI) Practices are not incorporated into the design, the applicant shall provide justification to the Public Works Superintendent or Water Quality Superintendent or their designee. Applicants shall demonstrate why the use of LID approaches to site runoff is not possible, including any supporting information or calculations. This must be demonstrated in order to receive permission to connect to the Village stormwater system or be eligible to pay the offset fee.

LID and GSI includes a set of practices that when incorporated into the early stages of design, reduce site runoff and related pollutants. On-site LID GSI strategies include Best Management Practice improvements such as rain gardens, buffer strips, filter strips, grass swales, infiltration basins ~~rain barrels~~, permeable pavement systems, cisterns, etc. Low Impact Design practices are encouraged to the maximum extent practical given the site’s soil characteristics, slope, and other relevant factors. Such factors shall include, but are not limited to:

1. Minimizing impervious surfaces, preserving open space and their natural drainage systems and preventing unnecessary soil compaction;
2. Directing rooftop runoff to a pervious area where water can infiltrate into the soil of flow overland with sufficient time and reduced velocity, thus allowing for filtering;
3. Restoring and enhancing natural areas such as stream buffers, wetlands and forests, steep slopes, soil permeability and natural drainage systems; and
4. Integration of several LID Best Management Practices such as minimizing soil and vegetation disturbances, installing rain gardens, diverting roof downspouts from hard surfaces to allow for infiltration, installing grass swales, etc.

E. Review Procedures. Staff shall review all applications for completeness within three (3) days of receipt. The Public Works Superintendent or Water Quality Superintendent or their designee shall act on all applications within ~~seven~~ thirty (30) ~~(7)~~ days.

F. Appeals. Any interested party may appeal a decision regarding construction of a stormwater system plan as specified in Chapter 117 of Title 24.

**Commented [CM40]:** This suggested phrase relates to proposed changes in Chp 7

**Commented [RM41R40]:** Sounds like something the PC will definitely want to discuss.

**Commented [RM42R40]:** RM just curious about whether the Village is enabled to do this.

G. Permits for Stormwater Discharges Associated with Construction Activities. Under the National Pollutant Discharge Elimination System (NPDES), construction projects involving one (1) acre or more of land disturbance require a stormwater permit to discharge stormwater runoff from construction activities, as covered by Construction General Permit 3-9020, which is overseen by The Vermont Department of Environmental Conservation’s Watershed Management Division.

H. Expiration of Approvals. Approvals shall expire one (1) year from the date permits are issued, if not implemented

**SECTION 514: APPROVAL OF ACTIVITIES INVOLVING THE DISTURBANCE OF LESS THAN ~~ONE (1)~~ ACRE OF LAND**

A. Review Requirement. Activities involving clearing, grading, construction or land development/disturbance of less than ~~half an acre~~ acre of land (~~0.5+~~) acre shall require review in accordance with the procedures of this section.

B. Review Standards. Activities reviewed under this section shall comply with the standards set forth in Section 713 of this Code. General requirements may be waived by the Public Works Superintendent or Water Quality Superintendent or their designee if the applicant conforms to the State of Vermont Best Site Management practices as outlined in: “The Low Risk Site Handbook for Erosion Prevention and Sediment Control” (as amended) or in the “Vermont Erosion Prevention and Sediment Control Field Guide” (as amended). The state guidelines are available at [http://www.vtwaterquality.org/stormwater/html/sw\\_cgp.htm](http://www.vtwaterquality.org/stormwater/html/sw_cgp.htm).

C. Application Requirements.  
1. Activities involving clearing, grading, construction or land development of land less than one (1) acre must include an erosion and sediment control plan indicating compliance with the “Low Risk Site Handbook for Erosion Prevention and Sediment Control.”  
2. Additional erosion control stipulations may be required depending on the specific site conditions, such as the extent of disturbed land, proximity of water, percent slope and soil types.

D. Review Procedures. Staff shall review all applications for completeness within three (3) days of receipt. The Public Works Superintendent or Water Quality Superintendent shall act on all applications within seven (7) days.

E. Appeals. Any interested party may appeal a decision regarding an erosion and sediment control plan as specified in Chapter 117 of Title 24.

F. Expiration of Approvals. Approvals shall expire one (1) year from the date permits are issued, if not implemented.

**SECTION 515: APPROVAL OF ACTIVITIES INVOLVING THE DISTURBANCE OF EQUAL TO OR GREATER THAN ~~ONE (1)~~ 1/2 ACRE AND/OR THE CREATION OF MORE THAN 1/2 ~~ONE (1)~~ ACRE OF IMPERVIOUS SURFACE**

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- Commented [JJ43]: again, 0.5 acres in the not too distant future. Consider this limit now??
- Commented [RM44R43]: Figure out 514 and 515 - what should the change.
- Commented [RM45R43]: Both should be 1/2 acre. Format the same.
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Commented [RM46]: Change this to 1/2 acre. And can the previous section be removed.

- A. **Review Requirement.** Activities involving clearing, grading, construction or land development of one (1) acre or more of land and/or creating a total resulting impervious surface equal to or greater than one (1) acre shall require review in accordance with the procedures of the State of Vermont Construction General Permit 3-9020 and General Permit ~~3-90153-9050~~ or other applicable state permits governing erosion and stormwater control of large construction sites. Evidence of compliance with this provision of Vermont State requirements must be provided in order to receive local approval to proceed. Projects with more than one acre of impervious surface shall also conform with the general standards.
- B. **Review Standards.** Based on State design criteria.
- C. **Application Requirements.** Application is made to the Agency of Natural Resources Water Quality Division.
- D. **Review Procedures.** The Village of Essex Junction reserves the right to require additional conditions above and beyond those in the State issue permit for due cause. The Village reserves this right in order to address specific operational concerns related to the site and its impact on abutters including the municipal right of way and the municipal infrastructure.
- E. **Appeals.** Any interested party may appeal a decision regarding an erosion and sediment control plan as specified in Chapter 117 of Title 24.
- F. **Expiration of Approvals.** Approvals shall expire as per the Land Development Code, concurrent with the permits issued by the State of Vermont depending on the phasing and size of the project.

**SECTION 516: APPROVAL OF ACTIVITIES INVOLVING DEVELOPMENT WITHIN 200 FEET OF A WATERWAY, FLOODPLAIN OR WETLAND**

A. **Review Requirement.** Activities involving development within 200 feet of a waterway, floodplain or wetland shall require review in accordance with the procedures of this section. **Activity in the area of a wetland will require state and federal regulatory review.** The property shall maintain a fifteen (15) foot or more undisturbed buffer to adjacent streams. The buffer may be required to be extended based on flood plain profile, slope of the land or other conditions where further setback is warranted for protection of the stream. A set back of fifty (50) feet above high water mark of the floodplain will be considered for impact of stream meandering, streambank crossing, flooding or other natural stream processes that may have an impact on developed land.

1. A planting project considered to have a permit by operation under 24 V.S.A. § 4424(c) shall not be required to file an application to obtain a permit under this Code. A "planting project" means planting vegetation to restore natural and beneficial floodplain functions, as defined in 42 U.S.C. § 4121(a), that include floodwater storage, water quality improvement, and supporting riparian and aquatic habitat. By operation of 24 V.S.A. § 4424(c), a planting project in a flood or other hazard area or river corridor protection area

**Commented [RM47]:** Why do you require review of development proposals within 200' when you don't regulate anything at 200'?

**Commented [JJ48]:** DEFER immediately to state regulation on WETLANDS. this is NOT an LDC or staff determination

**Commented [RM49R48]:** I agree, but the state only requires review within 50' of a wetland. Does the Village want to regulate a larger buffer? If so, then the local regs will need to be met.

**Commented [RM50R48]:** PC only wants to do what the state wants to do. So make that clear.

**Commented [RM51]:** New term for the LDC. Do we want to add it in?

is considered to have a permit under this chapter unless the project is:

- a. part of a larger undertaking that includes the construction or installation of structures, the creation of earthen berms or banks, or physical disturbance of land or water other than necessary for planting vegetation;
- or
- a.b.a forestry operation or part of a forestry operation as defined in 10 V.S.A. § 2602 and exempt from municipal regulation under subsection 4413(d) of this title.

- B. Review Standards. Activities reviewed under this section shall comply with the standards set forth in this Code.
- C. Application Requirements. Applications for development of any use, structure, excavation, filling, clearing or grading activity located within two hundred (200) feet of a waterway, floodplain or wetland shall indicate the distance from the proposed activity to the waterway, floodplain or wetland and the percent slope of the proposed site.
- D. Review Procedures. Staff shall review all applications for completeness within three (3) days of receipt. The Public Works Superintendent or Water Quality Superintendent shall act on all applications within ~~seven-10 days~~thirty (30) (7) days.
- E. Appeals: Any interested party may appeal a decision regarding a zoning district as specified in Chapter 117 of Title 24.
- F. Expiration of Approvals. Approvals shall expire one (1) year from the date permits are issued, if not implemented.
- G. Conditional Use Review. Shall be considered if it is determined that there is no potential adverse impact to the waters of the same.
- H. Riparian Buffer Landscaping Requirements. It is the objective of these standards to promote the establishment and protection of heavily vegetated areas of native vegetation and trees along waterways in order to reduce the impact of stormwater runoff, prevent soil erosion, protect wildlife and fish habitat and maintain water quality. Any application for development approval under this Code shall provide that all lands within a required riparian buffer are left in an undisturbed, naturally vegetated condition. These standards shall apply to all zoning districts. The following activities are not permitted within Riparian Buffer areas:
1. The creation of new lawn areas.
  2. The clearing of trees that are not dead, heavily damaged by ice storms or other natural events, or diseased.
  3. Property owners already encroaching on a riparian buffer shall be encouraged to return mowed areas to their naturally vegetated state.
- The following conditions will apply to any application for development approval under this Code:
1. Prior to issuing a zoning permit, the Commission may require on-site restoration

of degraded riparian habitats through supplemental planting and landscaping with appropriate species and by designating no mow zones.

2. Restoration standards for planting and landscaping appropriate for riparian buffers are outlined in the *Vermont Stormwater Management Manual – Volume II, Appendix A2*.

3. Riparian buffers established as part of this section shall be maintained by the developer and all other subsequent property owners or associations within the development. Reference to these established buffers shall be made in the appropriate deeds or common property documents.

The standards for maintenance of the stream buffer zone prohibit the following:

1. The creation of new lawn areas within stream buffers is not permitted after the effective date of these regulations.

2. Property owners already encroaching on the stream buffer are encouraged to return mowed areas to their naturally vegetated state.

3. Any areas within a required stream buffer that are not vegetated or that are disturbed during construction shall be seeded with a naturalized mix of grasses rather than standard lawn grass, and shall not be mowed more than one (1) time per calendar year after establishment.

4. Supplemental planting and landscaping with appropriate species of vegetation to restore and enhance the effective filtering function of a stream buffer is encouraged.

Expansion of pre-existing structures within stream buffers: Any building, structure, or land or use thereof, which is made nonconforming by reason of the adoption of this section, may be expanded or reconstructed, subject to the following provisions:

1. The structure to be expanded or reconstructed was originally constructed on or before promulgation of this rule.

2. The total building footprint area of the expanded or reconstructed structure shall not be more than fifty (50) percent larger than the footprint of the structure lawfully existing.

3. The non-conforming use shall not be changed to another non-conforming use.

4. A non-conforming use that is changed to a conforming use, discontinued for six (6) months, or abandoned shall not be resumed.

5. Enlargement, repair and reconstruction of pre-existing structures within stream buffers shall be permitted if it is determined that the development activity will not decrease the existing structure setback from the water body or increase the encroachment within the stream buffer.

New uses and encroachments within stream buffers: The encroachment of new land development activities into the Village’s stream buffers is discouraged. The Zoning Board of Adjustment may authorize the following as uses within stream buffers subject to the standards and conditions enumerated for each use:

1. Agriculture, horticulture and forestry including the keeping of livestock, provided that any building or structure appurtenant to such uses is located outside the stream buffer.

2. Clearing of vegetation and filling or excavating of earth materials, only to the extent directly necessitated for the construction or safe operation of a permitted or conditional use on the same property and where the Planning Commission finds that there is no practicable alternative to the clearing, filling or excavating within the stream buffer. This section is not meant to exclude any streambank alteration permitting requirements of the State of Vermont.

3. Encroachments necessary to rectify a natural catastrophe for the protection of the

**Commented [RM52]:** Does this need to be updated?

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**Commented [JJ53]:** update this to the DATE originally updated so that each revision is not considered a new start date.

**Commented [RM54R53]:** Just delete b/c redundant with above. Just make it clear that no lawns are allowed in buffers.

public health, safety and welfare.

4. Encroachments necessary for providing for or improving public facilities.

5. Public recreation paths located at least fifteen (15) feet above the ordinary high water mark or measured from the top of bank, whichever is greater.

6. Stormwater treatment facilities meeting the stormwater treatment practices and sizing criteria set forth in the *Vermont Stormwater Management Manuals Volumes I and II* as most recently amended. Evidence of an approved permit from the Vermont Agency of Natural Resources for coverage under the applicable permitting requirements shall be required to meet this criterion for encroachment into a stream buffer.

Commented [RM55]: Update reference?

7. Roadways or access drives for purposes of crossing a stream buffer area to gain access to land on the opposite side of the buffer, or for purposes of providing safe access to an approved use, in cases where there is no feasible alternative for providing safe access and the roadway or access drive is located at least fifteen (15) feet above the ordinary high water mark or measured from the top of bank, whichever is greater.

8. Utility lines, including power, telephone, cable, sewer and water, to the extent necessary to cross or encroach into the stream buffer where there is no feasible alternative for providing or extending utility services.

9. Outdoor recreation provided any building or structure (including parking and driveways) appurtenant to such use is located outside the stream buffer, and which does not involve the use of mowed fields within the stream buffer.

10. Research and educational activities provided any building or structure (including parking and driveways) appurtenant to such use is located outside the stream buffer.