

# **TOWN OF SANDGATE, VERMONT**

## **ZONING BYLAWS**

<b>ADOPTED</b>	<b>MAY 30, 1973</b>
<b>AMENDED AND ADOPTED</b>	<b>NOVEMBER 6, 1978</b>
<b>AMENDED AND ADOPTED</b>	<b>NOVEMBER 2, 1982</b>
<b>AMENDED AND ADOPTED</b>	<b>MARCH 1, 1983</b>
<b>AMENDED AND ADOPTED</b>	<b>NOVEMBER 6, 1984</b>
<b>AMENDED AND ADOPTED</b>	<b>NOVEMBER 4, 1986</b>
<b>AMENDED AND ADOPTED</b>	<b>MARCH 7, 2000</b>
<b>AMENDED AND ADOPTED</b>	<b>MAY 2, 2005</b>
<b>AMENDED AND ADOPTED</b>	<b>JULY 25, 2006</b>
<b>AMENDED AND ADOPTED</b>	<b>FEBRUARY 18, 2013</b>

ZONING BYLAWS  
TABLE OF CONTENTS

	PAGE
PURPOSE AND AUTHORITY.....	1
SECTION 1 – DEFINITIONS.....	1
SECTION 2 – DISTRICTS.....	5
Division into Districts .....	5
Zoning Map .....	5
Zoning of Streets.....	5
Land Under Water.....	5
Interpretation of Map .....	5
SECTION 3 – GENERAL REGULATIONS .....	5
Compliance with Bylaws .....	5
Dimensional Requirements .....	6
Use Regulations.....	6
Severability.....	6
Administrative Requirements .....	6
Required Notification to Vermont Department of Water Resources .....	6
Conditional Use.....	7
SECTION 4 – RESIDENTIAL DISTRICTS.....	7
Purpose .....	7
Permitted Uses in RR Districts.....	7
Conditional Uses in RR Districts .....	8
Specific Standards for Conditional Uses in the RR District .....	8
Accessory Uses and Buildings Permitted in RR Districts .....	8
Dimensional Requirements – RR Districts.....	9
SECTION 5 – FOREST #1 DISTRICT .....	9
Purpose .....	9
Permitted Uses in F1 Districts.....	9
Conditional Uses in F1 Districts .....	9
Specific Standards for Conditional Uses in the F1 District .....	10
Accessory Uses and Buildings Permitted in F1 Districts .....	10
Dimensional Requirements – F1 Districts.....	11
SECTION 6 – FOREST #2 DISTRICT .....	11
Purpose .....	11
Permitted Uses in F2 Districts.....	11
Conditional Uses in F2 Districts .....	12
Accessory Uses and Buildings Permitted in F2 Districts .....	13
Dimensional Requirements – F2 Districts.....	13

SECTION 7 – SPECIAL REGULATIONS .....	14
Nonconforming Uses and Non-complying Structures.....	14
Nonconforming Uses .....	14
Non-complying Structures .....	14
Restoration and Reconstruction .....	14
Protection of Streams and Drainageways.....	14
Driveways.....	15
Earth Product Removal .....	15
Removal Restricted .....	15
Permit for Removal of Earth Products .....	15
Existing Sand and Gravel Operations .....	16
Surety Bond .....	16
Mobile Home and Travel Trailer Occupancy and Mobile Home Parks.....	16
General Regulations .....	16
Mobile Home as a Dwelling .....	16
Mobile Home Park .....	16
Cluster Subdivision .....	17
Purpose .....	17
Where Permitted.....	17
Permitted Uses in Cluster Subdivisions .....	17
Density of Dwellings .....	17
Lot Dimensional Requirements .....	18
Sewage Disposal.....	18
Open Space.....	18
Ownership of Open Space .....	18
Satellite Television Antennas, Windmills, and Solar Collectors.....	18
Communication and Digital TV Towers.....	18
Refer to Sandgate “Wireless Telecommunication Facility Ordinance”	
Agricultural Buildings.....	18
Family Child Care Facility .....	19
Flood Hazard Regulations.....	19
Statutory Authorization and Effect.....	19
Statement of Purpose.....	19
Other Provisions.....	19
Lands to which these Regulations Apply.....	20
Summary Table: Development Review in Hazard Areas.....	20
Development Review in Hazard Areas.....	21
Development Standards.....	23
Administration.....	25
Certificate of Occupancy.....	26
Enforcement and Penalties.....	26
Definitions.....	26
SECTION 8 – ADMINISTRATION AND ENFORCEMENT .....	30
Permits .....	30
Interpretation of Bylaws.....	31
Site Development Plan.....	31
Waivers.....	31
Variances .....	31
Appeals .....	32
Penalties and Remedies .....	32
Validity.....	32
Public Notice .....	32
Zoning Board of Adjustment .....	32
Amendments .....	32

SECTION 9 – MAPS.....32

Map 1 Topographic Map.....33

Map 2 High Elevations.....34

Map 3 Water Resource.....35

Map 4 Agricultural Soils.....36

Map 5 Important Wildlife Habitats.....37

Map 6 Potential Gravel Deposits.....38

Map 7 Historic Sites.....39

Map 8 Land Use Plan.....40

Map 9 Transportation Plan.....41

Map 10 Public Facilities.....42

SANDGATE PLANNING COMMISSION

Thomas Fierravanti, Chairman  
 Judy Boehlert  
 Suzanne dePeyster  
 Lisa Robinson  
 Colleen Scholz  
 Jean Eisenhart, Alternate

ZONING ADMINISTRATOR  
 John LaVecchia

# TOWN OF SANDGATE

## ZONING BYLAWS

### PURPOSE AND AUTHORITY

This zoning bylaw is adopted under the authority of 24 V.S.A. Chapter 117, and is intended to supersede and replace any previous zoning bylaw of the Town of Sandgate. Its adoption shall indicate the repeal of any previous zoning bylaw. The purpose of this bylaw is to encourage the appropriate development of all lands in the Town in a manner which will promote the public health, economy, and general welfare, to provide methods for the prevention of such land development problems currently existing or which may be foreseen, and to implement the goals of the Town Plan of Sandgate.

### SECTION 1 - DEFINITIONS

For the purpose of this bylaw, certain terms or words shall be defined as below. Words in the present tense include the future, the singular number includes the plural, and vice versa. The word "person" includes a partnership, corporation, or other entity. The word "building" includes the word "structure".

**Accessory Use:** A use customarily incidental and subordinate to a principal use.

**Building:** Any structure larger than 150 cubic feet having a roof and intended for the shelter, housing or enclosure of persons, animals, or materials, or any fence over eight feet high.

**Building, Accessory:** Any building which is subordinate to and whose use is incidental and accessory to the use of the principal building. Porches and decks are considered accessory buildings for the purpose of setback requirements.

**Building, Principal:** The building on the lot containing the principal use or uses, as opposed to a building containing an accessory use customarily incidental to the principal use.

**Building Area:** The ground area referred to as "footprint" enclosed by the walls of a building, together with the area of all covered porches and other roofed portions.

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

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

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

**Camp, Primitive:** A building or tent not to exceed 600 sq. ft., which must be built on piers, and not used as a primary dwelling unit, but used occasionally or seasonally for temporary shelter in connection with a recreational activity, but not operated as a business.

**Changed Use:** When different zoning dimensional requirements or sewage regulations apply to the new use relative to the old use. A changed use shall also include, but not be limited to, the conversion of camps or nonresidential buildings to single or multiple family residential buildings, the conversion of a single family residential building to a multiple family residential building, and the conversion of any residential building or residential accessory building to a commercial or industrial use.

**Customary Home Occupation:** An occupation that is customarily practiced in the community at home and which satisfies the following criteria:

- a) is carried on by a person residing on the site;
- b) is clearly incidental and secondary to the use of the property for residential purposes;
- c) conforms to the following additional conditions:
  - 1. the occupation or profession is carried on wholly within the dwelling unit or in a building or structure accessory to the dwelling unit;
  - 2. not more than two persons not residing on premises working on the premises in the home occupation at any point in time;
  - 3. there is no exterior display or sign except as approved by the Selectboard. No exterior storage of materials, and no other exterior indication of a home occupation or variation from the residential character of the principal building;
  - 4. no offensive noise, vibrations, smoke, dust, odors, heat, light, or glare are produced;
  - 5. there are no retail sales, unless the items sold are products of the owner's own labor or are incidental to the products of the owner's own labor, or are antiques;
  - 6. the customary home occupation does not affect the residential character of the neighborhood;
  - 7. if located in the principal dwelling unit on the property, the customary home occupation shall utilize an area not to exceed 40 % of the floor area of that building, up to a maximum of 1,500 square feet; if located in an accessory building on the property, the customary home occupation shall occupy an area not to exceed 1,500 square feet.

**Deck:** A floored structure usually attached to a dwelling with access via an outside door. A deck can be roofed and railed, but does not have definable sidewalls except where abutting dwelling walls (See "Porch").

**District:** A district established by the provisions of Section 2 of this bylaw.

**Dwelling Unit, Accessory:** An efficiency or one bedroom dwelling unit located within or appurtenant to an owner-occupied one-unit dwelling that is clearly subordinate to the one-unit dwelling, which has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided that the property has sufficient wastewater capacity and that the unit does not exceed 30 percent of the total habitable floor area of the one-unit dwelling, but is at least 400 square feet in floor area. An accessory dwelling unit does not require any additional lot area beyond that which is required for the one-unit dwelling.

**Dwelling, One-Unit:** A detached building designated for or occupied solely as a dwelling unit.

**Dwelling, Two-Unit:** A detached building constructed to serve as two independent dwelling units.

**Dwelling, Multiple:** A building containing separate dwelling units for three families, having separate or joint entrances, services, or facilities.

**Dwelling Unit:** A building or part of a building occupied or intended to be occupied by one family for residential purposes, containing full kitchen and bathroom facilities, including a properly functioning sewage disposal system and replacement area conforming to all applicable provisions of the Vermont Agency of Natural Resources, and an independent entrance for the exclusive use of the occupants.

**Easement:** A legal interest in land, generally established in a deed or on a recorded plat, granted by the owner to another person, which allows that person(s) the use of all or a portion of the owner's land, generally for a stated purpose including but not limited to access or placement of utilities or conservation of open space.

**Earth Product Removal:** The use of a lot or portion thereof for the purpose of removing minerals, stone, sand, gravel, or top soil for resale or reuse, other than removal that is incidental to construction of a permitted building or other structure on the lot.

**Family:** A group of individuals living together in a single housekeeping unit.

**Footprint:** See building area.

"G"

**Hotel:** A building operated as a business and providing lodging for persons with or without meals, and intended for the accommodation of transients, and so designed that normal access and egress are controlled from a central point. A hotel is not a dwelling unit.

**Inn:** See hotel.

"J"

**Lot:** A plot or parcel of land.

**Lot, Building:** A plot or parcel of land occupied or capable of being occupied by one or more principal building and accessory buildings or uses customarily incident to it, including such open spaces as are required by this bylaw. In the case of multiple dwellings and public, institutional, commercial, industrial or agricultural buildings, a group of buildings on the same or contiguous premises, all under one ownership, may be considered as occupying the same lot.

**Lot, Corner:** A lot at the intersection of and abutting two or more streets where the angle of intersection is not more than 135 degrees, or where the intersection is rounded by a curve having a radius of less than 100 feet.

**Lot, Interior:** A lot other than a corner lot or through lot.

**Lot, Through:** A lot other than a corner lot which abuts two or more streets which do not intersect at the lot.

**Lot Line, Front:** All dividing lines between a street and the lot shall be considered front lines.

**Lot Line, Rear:** The line or lines bounding a lot at the rear and approximately parallel to and at the maximum distance from the front lot line.

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

**Lot, Minimum Width:** The average distance between the side lot lines measured in a straight line between the side lot lines; such measurements to be taken every 50 feet over the full depth of the lot.

In the case of a corner lot, the minimum width shall be similarly measured and, for the purpose of this measurement only, the front lot line which has the least dimension shall be considered the front lot line, and the lot lines adjacent thereto shall be considered as side lot lines.

**Manufacturing:** Shall include fabricating, treating, processing, and similar operations performed on any materials permitted to be worked upon by the terms of this bylaw.

**Mobile Home:** A prefabricated dwelling unit which is designed to be moved as a whole or in sections and installed at a site as a permanent residence; is anchored onto a foundation; satisfies all local zoning and Vermont Agency of Natural Resources requirements applicable to a dwelling unit; and which bears a seal signifying conformance to the design and construction requirements of the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards (24 CFR Part 3280).

**Mobile Home Park:** Any premises used or permitted to be used for parking more than one mobile home.

**Motel:** A building or group of buildings operated as a business and providing lodging for persons, intended primarily for the accommodation of transients, and each of which rooms or suites of rooms has automobile parking space provided on the premises.

**Non-complying Structure:** A structure or part thereof not in conformance with zoning regulations covering building bulk, dimensions, height, area, yards (setbacks), density, or off-street parking or loading requirements, where such structure conformed to all applicable laws, ordinances, and regulations prior to the enactment of such zoning regulations.

**Nonconforming Use:** A use of land or structure which does not comply with all zoning regulations, where such use conformed to all applicable laws, ordinances, and regulations prior to the enactment of such regulations.

**Open Space:** A space, not occupied by a building or other roofed structure on the same lot as the principal building.

**Porch:** A structure attached to the main dwelling with access through an outside door.

**Premises:** A lot, as defined in this section.

**Primitive Camp:** See camp.

**Public Sewer:** A system of sanitary sewers owned by a municipality or other governmental unit.

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

"Q"

**Road:** A street, as defined in this section.

**Setback:** See Yard

**Sewage Disposal System:** A system for the disposal of waste using undisturbed soil on-site as a disposal medium, including a tank for collection of solids and leach area for liquids.

**Street:** A town or state highway, a street of an incorporated village or a street shown on a subdivision plan approved by the Planning Commission. The word "street" shall include the entire right-of-way thereof. (If a boundary of the right-of-way has not been surveyed and so recorded, the boundary shall be deemed to be 25 feet from the centerline of the traveled way).

**Street Line:** The line dividing the street and lot.

**Thread of the River:** Lowest elevation of riverbed.

**Travel Trailer:** A vehicle designed and used primarily for recreational travel purposes. To be considered a travel trailer such vehicle must rest on its own wheels. The provisions hereof applicable to travel trailers shall also be applied to any motor vehicle whose body has been equipped for occupancy for recreational purposes.

**Travel Trailer Camp:** Any premises used or permitted to be used for the parking of more than one occupied travel trailer.

"U"

**Violation:** See Section 8.6.

"W"

"X"

**Yard, Front:** An open space between the building and the front lot line, extending the full length of the lot, or in the case of a corner lot, extending along all streets.

**Yard, Rear** The open space between the building and the rear lot lines, extending the full length of the lot.

**Yard, Side:** An open space between the building and a side lot line, extending the full length of the lot.

**Yard, Required Front, Rear, or Side:** As much of the front, rear, or side yard, as required by the applicable provisions of this bylaw.

**Yards, Depth or Width:** The depth of front or rear yards, and the width of side yards, shall be measured perpendicularly to the respective lot lines.

"Z"

**SECTION 2 - DISTRICTS**

**2.1 Division into Districts:** For the purposes of this bylaw, the Town is divided into the following classes of districts, to be designated by the abbreviations set forth below:

<b>Rural Residence</b>	<b>RR Districts</b>
<b>Forest #1</b>	<b>F1 Districts</b>
<b>Forest #2</b>	<b>F2 Districts</b>

The regulations of this bylaw are applicable to each class of district.

**2.2 Zoning Map:** The boundaries of these districts are hereby established, as shown on the official Zoning and Town Plan Maps, Section 9. Map 8 "Land Use Plan" shows the boundaries of the districts.

**2.3 Zoning of Streets:** Zoning districts shall include the beds of streets lying within them. Where opposite sides of a street lie in different districts, the boundary shall be deemed to be the center of the right-of-way.

**2.4 Land Under Water:** Zoning districts shall include any land under rivers, streams, lakes or ponds lying within them. Where opposite sides of a river or a stream lie in different districts, the boundary shall be the thread of the river or stream. Where opposite sides of a lake, pond, swamp, or water body lie in different districts, the boundary shall be deemed to be the center thereof.

**2.5 Interpretation of Map:** Any question as to the location of a district boundary line on the Zoning Map shall be resolved by the Zoning Administrator with appeals of any such decision made to the Zoning Board of Adjustment (ZBA).

**SECTION 3 - GENERAL REGULATIONS**

**3.1 Compliance with Bylaws:**

1. No land or premises or part thereof shall hereafter be used, and no buildings or part thereof or other structure shall be constructed, reconstructed, extended, enlarged, moved, or altered except in conformity with this bylaw. Interior alterations and normal maintenance activities that do not enlarge a building or result in a changed use shall not require a zoning permit nor be subject to review under this bylaw.
2. No lot shall have an area, width, or front, side, or rear yard less than that set forth in the applicable paragraph hereof, except as otherwise provided in this bylaw.
3. Nothing contained in this bylaw shall require any change in structure or use of a building complying with local laws in force prior to this bylaw.

**3.2 Dimensional Requirements:** Land development may be permitted only on lots which have frontage of at least 50 feet on a public street or have access to such a street by a permanent easement or right-of-way at least 20 feet in width approved by the Planning Commission.

**3.3 Use Regulations:** No building, structure, or portion thereof shall be erected, altered or moved, and no land or buildings, or part thereof, shall be used for any use other than those listed as a permitted use in the district in which it is located. Except as otherwise provided herein, any use not specifically permitted shall be deemed to be prohibited.

1. No more than one inoperable motor vehicle may be stored on any lot for a period in excess of thirty days unless within a building or totally screened from view off the premises. "Inoperable" means unregistered or used for salvage. No scrap or waste material not originating on the premises may be stored or disposed of on any lot, except at a municipal solid waste disposal area. No scrap or waste material originating on the premises may be stored on any lot unless within a building or totally screened from view off the premises, except that a reasonable time shall be allowed for removal of scrap or waste material resulting from a construction operation, or for fire, flood, or similar emergency. This provision shall not interfere with the continued operation of a bona fide pre-existing auto repair establishment or similar business.
2. Any existing use subject to this section shall be brought into compliance with Section 3.3.1 of this bylaw within ninety days.

**3.4 Severability:** Should a court of competent jurisdiction determine any portion of this bylaw to be invalid, the remainder of the bylaw shall remain in full force and effect.

**3.5 Administrative Requirements:**

1. Any lot in individual, separate and non-affiliated ownership from surrounding properties in existence on the effective date of this zoning regulation may be developed for the purposes permitted in the district in which it is located, even though not conforming to the minimum lot size requirements, if such lot is not less than one-eighth acre in area with a minimum width or depth dimension of forty feet. The lot must meet all other zoning requirements for development.
2. If an existing small lot comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed to be merged with the contiguous lot. However, a nonconforming lot shall not be deemed merged and may be separately conveyed if all the following apply:
  - a. The lots are conveyed in their preexisting, nonconforming configuration.
  - b. On the effective date of this bylaw, each lot was developed with a water supply and wastewater disposal system.
  - c. At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner.
  - d. The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 V.S.A. Chapter 64.
3. If more than one dwelling is to be placed on any one lot, each dwelling shall be located so that each such dwelling, with any building accessory to it, could be set off as a separate lot conforming to all of the applicable provisions of this bylaw. This requirement shall not apply to accessory apartments as defined in this bylaw. No building shall be sold into separate ownership except in compliance with the above.
4. Any structure placed in a pre-existing lot meeting the requirements of Section 3.5.1 which lot lies in more than one district, must meet all the requirements of the district where it is placed.

**3.6 Required Notification to Vermont Department of Water Resources:** No zoning permit for the development of land located within a designated flood hazard area or wetland may be granted prior to the expiration of a period of thirty (30) days following the submission of a report to the Vermont Department of Water Resources describing the proposed use and the location requested for such use.

**3.7 Conditional Use:** A conditional use may be approved by the ZBA only after a public hearing and upon finding by the ZBA that such use shall not adversely affect:

1. the capacity of existing or planned community facilities;
2. the character of the area affected, as defined by the purpose of the zoning district within which the project is located, and specifically stated policies and standards of the Town Plan;
3. traffic on roads and highways in the vicinity;
4. other provisions of ordinances, regulations, and bylaws of the Town of Sandgate applicable thereto; or
5. the utilization of renewable energy resources.

Each use so approved shall meet any standards applicable to the specific uses as to lot and building dimensional requirements, landscaping, design, and locations of service areas, and other standards that may be imposed by the Board of Adjustment. Approval shall be based on a site development plan, prepared in conformance to the requirements of Section 8.3, and failure of the development to conform to such site plan shall constitute a violation of this bylaw.

The Board of Adjustment shall act to approve or disapprove any such requested conditional use within forty-five (45) days after the date of the final public hearing, and failure to so act within such period shall be deemed approval.

#### **SECTION 4 - RESIDENTIAL DISTRICTS**

**4.1 Purpose:** The purpose of the Rural Residential District is to assure the preservation of the natural rural and scenic qualities of areas which are planned to be predominantly residential in character and to encourage development close to existing roads and to minimize the length of new roads, and to avoid the need for public water supply and public sewer systems.

#### **4.2 Permitted Uses in RR Districts:**

1. One-family, two-family dwellings, and multiple-family dwellings, as defined in this bylaw, on a lot of not less than two acres per dwelling unit;
2. Customary home occupations, as defined by this bylaw;
3. Agricultural uses, including: maple sugaring, pasturage of livestock, crop raising, farm stands, and buildings accessory to and necessary for such agricultural uses;
4. Rooming houses and tourist homes for not more than six roomers or tourists, provided that no sign connected therewith shall exceed four square feet;
5. A cemetery;
6. A state licensed or registered community care home or group home, serving not more than eight persons who are developmentally disabled or physically handicapped, except that no such home shall be located within 1,000 feet of another such home;
7. A state licensed or registered family child care facility as provided for in Section 7.10;
8. Public utility power transmission lines;
9. Churches, convents, parish houses, and similar houses of worship;

10. An accessory dwelling unit on a lot occupied by a principal dwelling. There may be no more than one such accessory dwelling unit on a lot. The requirements of the Vermont Agency of Natural Resources must be met.

**4.3 Conditional Uses in RR Districts:** The following uses are conditionally permitted in RR Districts, subject to the requirements of Sections 3.7 and 8.3, and the specific standards contained in this section:

1. A recreational facility or camping area for groups of adults, families, or children, whether operated for profit or not, provided that the lot area is not less than twenty-five acres, plus an additional 8,000 square feet for each person accommodated, and that all buildings are located not less than 200 feet from any street line or other lot line;
2. A state licensed or registered family child care facility as provided for in Section 7.11;
3. Public utility power generating plants;
4. State or community owned and operated institutions and facilities;
5. Public and private schools and other educational institutions certified by the Vermont Department of Education;
6. Public and private hospitals.
7. Mobile home parks as provided for in Section 7.6(3).

**4.4 Specific Standards for Conditional Uses in the RR District:**

**a. Lighting**

Exterior lighting, including, but not limited to, lighting of exterior walls of buildings and lighting of walks and drives, shall be done in such a manner as to direct light away from adjacent lots and public ways. Continuous dusk to dawn lighting is not permitted.

**b. Refuse Disposal**

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

**c. Building and Site Design**

The project shall be designed to take advantage of the natural terrain and vegetation and public views to the greatest extent possible.

The project shall utilize an architectural design that complements the rural environment and is compatible with surrounding land uses. Consideration shall be given to building height and size, roof shape, pitch and direction, exterior materials and texture, color, and architectural features including but not limited to, cornices, entablatures, doors, windows, shutters, chimneys, porches, stairways, signs, and accessory structures.

Land which is not occupied by buildings, streets, or parking lots shall be reserved and maintained in open green space; the location, character, landscaping, and size of such areas shall be planned so as to contribute favorably to the property's appearance from the town road.

**4.5 Accessory Uses and Buildings Permitted in RR Districts:** Accessory uses and buildings customarily incidental to a permitted or conditional use on the same lot, including buildings used for permitted home occupations. Accessory buildings shall not be used for dwelling purposes, except for accessory dwelling units.

**4.6 Dimensional Requirements - RR Districts:**

	<b>Principal Building or Use</b>	<b>Accessory Buildings</b>
Minimum lot area	2 acres	N/A
Minimum lot area per dwelling unit *	2 acres	N/A
Minimum lot width	300 feet	N/A
Minimum front yard <i>(setback from the center line of the traveled portion of the road)</i>	75 feet	50 feet
Minimum side yard <i>(setback)</i>	50 feet	25 feet
Minimum rear yard <i>(setback)</i>	50 feet	25 feet
Minimum from stream bank**	100 feet	100 feet

\* Except as provided for in mobile home parks - Section 7.6(3)

\*\* See Section 7.3.1

**SECTION 5 - FOREST #1 DISTRICT**

**5.1 Purpose:** To guide the growth of the town in an orderly manner by concentrating residential and other development where it will most efficiently be served by public facilities, utilities and roads; to preserve tracts suitable for perpetuating the forest resources and forest-related industries which have been an important part of the State's economy; to protect the vital sources of pure water for public supplies; to maintain a high quality environment for forest and mountain based recreation; and to assure the preservation of the natural rural and scenic qualities.

**5.2 Permitted Uses in F1 Districts:**

1. A one-family or two-family dwelling on a lot of not less than 5 acres per dwelling unit.
2. Customary home occupations, as defined in this bylaw.
3. Agricultural uses, including: maple sugaring, pasturage of livestock, crop raising, farm stands, and buildings accessory to and necessary for such agricultural uses.
4. Commercial forestry and related uses.
5. A state licensed or registered residential group home, serving not more than eight persons who are developmentally disabled or physically handicapped, except that no such home shall be located within 1,000 feet of another such home.
6. A state licensed or registered family child care facility as provided for in Section 7.11.
7. Public utility power transmission lines.
8. Churches, convents, parish houses and similar houses of worship.
9. An accessory dwelling unit on a lot occupied by a principal dwelling. There may be no more than one such accessory dwelling unit on a lot. Sewage Ordinance regulations must be met.

**5.3 Conditional Uses in F1 Districts:** The following uses are conditionally permitted in the F1 District, subject to the requirements of Sections 3.7 and 8.3, and the specific standards contained in this section:

1. A seasonal private recreational, hunting, or fishing primitive camp, subject to the following:
  - a. Toilet facilities shall not be located within the principal building. Only privy-type toilet facilities are permitted; the camp may not be served by a sewage disposal system (tank and leaching field).

- b. No toilet facilities shall be located within 100 feet of any water supply or water body (spring, well, stream, brook, river, pond, or wetland).
  - c. Unless the terrain makes it unsuitable, all buildings shall be located not less than 200 feet from any lot and street line.
  - d. Camps in the F1 District shall not be served by electricity generated at an off-site power source.
2. A recreational facility or camping area for groups of adults, families, or children, whether operated for profit or not, provided that the lot area is not less than twenty-five acres, plus an additional 8,000 square feet for each person accommodated, and that all buildings are located not less than 200 feet from any street line or other lot line;
  3. A state licensed or registered family child care facility as provided for in Section 7.11;
  4. Public utility power generating plants;
  5. State or community owned and operated institutions and facilities;
  6. Public and private schools and other educational institutions certified by the Vermont Department of Education;
  7. Public and private hospitals.

**5.4 Specific Standards for Conditional Uses in the F1 District: (Applies to uses listed in Section 5.3 (2-7) above, only)**

**a. Lighting**

Exterior lighting, including, but not limited to, lighting of exterior walls of buildings and lighting of walks and drives, shall be done in such a manner as to direct light away from adjacent lots and public ways. Continuous dusk to dawn lighting is not permitted.

**b. Refuse Disposal**

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

**c. Building and Site Design**

The project shall be designed to take advantage of the natural terrain, vegetation, water quality and public views to the greatest extent possible.

The project shall utilize an architectural design that complements the rural environment and is compatible with surrounding land uses. Consideration shall be given to building height and size, roof shape, pitch and direction, exterior materials and texture, color, and architectural features including but not limited to, cornices, entablatures, doors, windows, shutters, chimneys, porches, stairways, signs, and accessory structures.

Land which is not occupied by buildings, streets, or parking lots shall be reserved and maintained in open green space; the location, character, landscaping, and size of such areas shall be planned so as to contribute favorably to the property's appearance from the road.

**5.5 Accessory Uses and Buildings Permitted in F1 Districts: Accessory uses and buildings customarily incidental to a permitted or conditional use on the same lot, including buildings used for permitted home occupations. Accessory buildings shall not be used for dwelling purposes, except for accessory dwelling units.**

**5.6 Dimensional Requirements - F1 Districts:**

	<b>Principal Building or Use</b>	<b>Accessory Building</b>
Minimum lot area	5 acres	N/A
Minimum lot area per dwelling unit	5 acres	N/A
Minimum lot width	300 feet	N/A
Minimum front yard <i>(setback from the center line of the traveled portion of the road)</i>	75 feet	50 feet
Minimum side yard <i>(setback)</i>	50 feet	25 feet
Minimum rear yard <i>(setback)</i>	50 feet	25 feet
Minimum from stream bank *	100 feet	100 feet

\*See Section 7.3.1

**SECTION 6 - FOREST #2 DISTRICT**

**6.1 Purpose:** To preserve tracts suitable for perpetuating the forest resources and forest-related industries which have been an important part of the State's economy; to maintain a high quality environment for forest and mountain based recreation; and to identify those areas where substantial development of the land in terms of buildings, structures, or other intensive uses are prohibited because:

1. Topography, soil depth, drainage, slope, or other natural conditions present environmental limitations to development in the general area;
2. Use involves the inefficient development of roads, utilities, and public services; and
3. Vital watershed areas require protection in order to maintain and preserve a safe, healthful, and reliable water supply for the present and future residents of the Town of Sandgate.

**6.2 Permitted Uses in F2 Districts:**

1. Agricultural uses, including: maple sugaring, pasturage of livestock, crop raising, and buildings (except dwellings) accessory to and necessary for such agricultural uses;
2. Commercial forestry and related uses;
3. Forestry carried on for research, demonstration, education, and related uses;
4. Recreational uses;
5. Private recreational, hunting, or fishing primitive camp, subject to the following:
  - a. Toilet facilities shall not be located within the principal building. Only privy-type toilet facilities are permitted; the camp may not be served by a sewage disposal system (tank and leaching field).
  - b. No toilet facilities shall be located within 100 feet of any water supply or water body (spring, well, stream, brook, river, pond, or wetland).
  - c. All buildings shall be located not less than 200 feet from any lot and street line.
  - d. Camps in the F2 District shall not be served by electricity generated at an off-site power source.
6. Public utility power generating plants and transmission lines.

7. One-family dwelling units on a minimum lot of twenty-five (25) acres per dwelling unit, provided that any such dwelling unit is located within 250 feet of the center line of the traveled portion of a Class II or III town highway.
8. An accessory dwelling unit on a lot occupied by an existing or permitted principal dwelling. There may be no more than one such accessory dwelling unit on a lot. Sewage Ordinance regulations must be met.
9. A state licensed or registered residential group home, located within 250 feet of the center line of the traveled portion of a Class II or III town highway, and serving not more than eight persons who are developmentally disabled or physically handicapped, except that no such home shall be located within 1,000 feet of another such home.
10. A state licensed or registered family child care facility as provided for in Section 7.10, and located within 250 feet of the center line of the traveled portion of a Class II or III town highway.

**6.3 Conditional Uses in F2 Districts:** The following uses are conditionally permitted in the F2 District, subject to the requirements of Sections 3.7 and 8.3, and the specific standards contained in this section:

1. One-family dwellings, located more than 250 feet from the center line of the traveled portion of a Class II or III town highway, on a minimum lot of twenty-five (25) acres per dwelling unit, and subject to the following:
  - a. Topography shall be mapped at twenty (20) foot intervals, unless the ZBA determines that a larger scale is necessary, and construction should be avoided on slopes greater than 15 percent;
  - b. Natural drainage shall be maintained;
  - c. A lot shall have at least 25 acres below 1,600 feet in elevation for development and no dwelling on that lot shall be above 1,600 feet in elevation;
  - d. Soil types based on the USDA soils classification, soil percolation rates, and depth to bedrock shall be identified;
  - e. All requirements for a sewage disposal system according to the Vermont Agency of Natural Resources shall be met.
  - f. In addition to the requirements of Section 8.3, the site plan shall clearly show forested and open areas, water bodies, proposed building footprints and limits of clearing, and road and driveway locations. Photographs of the site shall be attached to the site plan showing the area where development will occur as seen from public highways.
  - g. A narrative shall be prepared by the applicant and submitted to the ZBA at least 21 days prior to the public hearing. Said narrative shall include the following:
    - i. Impact on surface water quality;
    - ii. Impact on ground water quality;
    - iii. Effects on important wildlife habitats, botanical features, geologic and archaeological features, and scenic resources;
    - iv. Capability of soils, natural characteristics of the site, vegetation cover, and proposed erosion control efforts to support the proposed development without danger of erosion, silting, or instability;
    - v. The protection or loss of timber resources;
    - vi. The impacts on the Town providing services such as, but not limited to, roads and schools;

- vii. The nature of existing or proposed roads and access to the development;
- h. Protection of scenic resources by ensuring that the following conditions are satisfied:
  - i. Adequate vegetation will be retained to provide a visual backdrop and to soften and screen the façade of buildings. Particular attention should be given to the impacts associated with removal of extensive areas of vegetation downslope from development sites.
  - ii. Development shall be sited so that no building or structure constructed on any lot shall exceed the height of land serving as the visual and physical backdrop to the site as viewed from a public highway.
  - iii. Outdoor lighting should not be directed toward or illuminate off-site locations. Lighting to highlight architectural features is prohibited.
  - iv. Materials utilized for the exterior of any structures shall be of a kind and positioned on structures so as to minimize glare to avoid undue adverse visual impact. Particular attention may be given as to the number, position, and type of window and door glass, skylights, etc. so as to minimize glare, without undue cost or burden.
  - v. Construction of or improvements to access roads, to the extent possible, shall follow the contour of the land. Access roads and driveways should be located within existing forest or forest fringe areas and not in open spaces, when and where possible.
  - vi. Development should maintain the sense of order or harmony of the natural landscape formed by the ridgeline, mountainside, forests, open spaces, or agricultural fields. Buildings should not be located in open spaces, but rather in existing forested areas or at the forest-field fringe when possible.

The ZBA may impose conditions to minimize the potential for adverse impacts on any of the items identified above.

- 2. Customary home occupations as defined in this bylaw, provided that, if required by this bylaw, a conditional use permit has been granted for the residential building.

**6.4 Accessory Uses and Buildings Permitted in F2 Districts:**

- 1. Accessory uses customarily incidental to a permitted or conditional use on the same lot. Accessory buildings shall not be used for dwelling purposes, except that accessory dwelling units are permitted within 250 feet of a town road.

**6.5 Dimensional Requirements - F2 Districts:**

	<b>Principal Building or Use</b>	<b>Accessory Building</b>
Minimum lot area	25 acres	N/A
Minimum lot area per dwelling unit	25 acres	N/A
Minimum lot width	500 feet	N/A
Minimum front yard <i>(setback from the center line of the traveled portion of the road)</i>	75 feet	50 feet
Minimum side yard <i>(setback)</i>	50 feet	50 feet
Minimum rear yard <i>(setback)</i>	50 feet	50 feet
Minimum from stream bank *	100 feet	100 feet

\* See Section 7.3.1

## **SECTION 7 - SPECIAL REGULATIONS**

### **7.1 Nonconforming Uses and Non-complying Structures:**

#### **1. Nonconforming Use:**

Any nonconforming use of a building or premises which was lawfully existing at the time of adoption of this bylaw, or any pertinent amendment thereto, may be continued, and any building so existing which was designed, arranged, intended for, or devoted to a nonconforming use, may be reconstructed and structurally altered, and the nonconforming use therein changed, subject to the following regulations:

- a. A nonconforming use may not be changed, except to a conforming use, or with the approval of the Board of Adjustment, to another nonconforming use not more objectionable in character.
- b. If a nonconforming use is changed into a conforming use, it shall not be changed back into a nonconforming use.
- c. No nonconforming use shall be extended or expanded, except with the approval of a site plan by the Planning Commission and with the approval of the Board of Adjustment, provided that said Board shall have found that such extension or expansion will have no unduly adverse effect upon the public health, safety, and upon property values in the vicinity, and where, in the opinion of the Board, strict enforcement of this bylaw would result in exceptional and unnecessary hardship on the owner of an established nonconforming use.
- d. No nonconforming use, which has been discontinued for a period of one year, shall be resumed thereafter.
- e. Nothing herein shall require the discontinuance of use of a building that does not comply with the requirements of this bylaw if such use lawfully conformed to all prior bylaws or ordinances of the town.

#### **2. Non-complying Structures:**

Any building which does not conform to the dimensional requirements of this bylaw regarding area and width of lot, and required setbacks shall not be enlarged, moved or substantially altered (extension of building footprint or construction of additional usable floor area on an upper floor) unless such enlarged, moved or altered portion conforms to the regulations, including dimensional, use, and sewage regulations, applying to the district in which it is located. If such enlarged, moved or altered portion fails to conform to dimensional requirements, construction may only occur if a variance is approved by the Board of Adjustment.

### **7.2 Restoration and Reconstruction:**

Except in the Flood Hazard Areas, upon application by the property owner, the Zoning Administrator shall grant without fee a building permit for the restoration or reconstruction, within 18 months, of a non-complying structure damaged or destroyed by fire, explosion, accident, or by the public enemy, to its condition prior to such damage or destruction. Any other construction on the site or reconstruction after 18 months will be subject to all requirements of this bylaw.

### **7.3 Protection of Streams and Drainageways:**

1. No structure shall be placed, and no land shall be excavated, filled, or graded in any zoning district within a distance of at least one hundred (100) feet from the normal bank of any stream or watercourse, nor shall land within twenty-five (25) feet of any stream bank be stripped of natural vegetation, except with the approval of the Planning Commission. The requirements of this section shall not apply to agricultural

uses and the normal maintenance of existing lawns. This paragraph does not apply to the shoreline of ponds.

2. Notwithstanding paragraph 1 of this section, any land development which requires a Stream Alteration Permit under 10 V.S.A. Chapter 41 or a permit for construction of a dam under 10 V.S.A. Chapter 43 may receive a zoning permit from the Zoning Administrator without the approval of the Planning Commission after presentation of evidence that all required State permits have been granted.
3. For all other land development described in paragraph 1 of this section application for approval shall be submitted to the Planning Commission with such surveys, maps, and other data as the Commission may require in order to reach its decision.
4. Prior to granting such approval, the Commission shall have found that the proposed construction, earth excavation, filling, or grading will not contribute to any impeded drainage, flood hazard, erosion, silting, or other adverse effect on natural conditions, or on fish or wildlife habitat, nor interfere with present or planned storm water drainage system of the Town. The Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites and the Vermont Streambank Conservation Manual may be used as guides in meeting this requirement.

#### **7.4 Driveways:**

Accessible driveways are a key factor in allowing fire and emergency personnel access to the scene of an emergency. Slope, width, surface, turnouts, turnarounds, clear heights, and curves play a role in determining accessibility.

1. Driveways may be located within side or rear yard setback areas.
2. It is recommended that no driveway should exceed an average grade of 15% within any 50-foot section. The approach area within 20 feet of the road right-of-way should not exceed a 3% grade.
3. Driveways 500 feet or more in length should include, at minimum, one (1) 12-foot by 50-foot turnout area and a turnaround (a “Y” or “T”) at the end.
4. Driveways, to the extent feasible, shall be sited to avoid areas of steep slope (15% or more), primary agricultural soils, and surface waters, wetlands and associated buffer areas and to minimize the number and extent of stream crossings.
5. Shared driveways serving up to three (3) lots are encouraged and may be required for development subject to review by the Planning Commission. For shared driveways, the interests of the owner of each lot shall be protected by an easement recorded in the deed of each lot.

#### **7.5 Earth Product Removal:**

1. **Removal Restricted:** Except as otherwise provided in this subsection, there shall be no removal from the premises in any district of earth, sand, gravel, clay, or stone, except as surplus material resulting from a bona fide construction, landscape, or agricultural operation being executed on the premises, and provided that the disturbed soil is reseeded and mulched within one month of the completion of the extraction to prevent erosion by establishing a permanent vegetative cover.
2. **Permit for Removal of Earth Products:** The ZBA, after a public hearing, may grant a conditional use permit for the removal of earth, sand, gravel clay, or stone, under the following conditions:
  - a. The applicant shall submit a plan showing existing grades in the area from which the material is to be removed, together with finished grades at the conclusion of the operation.

- b. The operator shall provide for proper drainage during and after completion of the operation, and any excavated bank shall be stabilized to prevent erosion or collapse. No removal shall take place within twenty feet of a property line, except that where the grade from a property line rises toward the lot where removal is to take place, materials lying above the grade at the property line may be removed.
  - c. In addition to the requirements of Section 7.3, and any applicable state regulations, when the extraction is wholly or partly from a stream bed, it shall be carried on in such a manner that there shall be no obstruction or substantial change in normal flow, and at the conclusion of work in any section there shall be no increase in erosion or flood hazards.
  - d. Permits for removal of earth products will be issued on a maximum three-year basis and may be renewed by the Board of Adjustment at that time free of charge.
3. **Existing Sand and Gravel Operations:** Existing sand and gravel, or other extractive operations, must conform to State law where applicable.
4. **Surety Bond:** In accordance with the provisions of Section 4407 (8) of the Vermont Planning and Development Act, and before a permit is granted under this section, the applicant may be required to post a surety bond with the Treasurer of the Town in an amount and in a form approved by the Board of Adjustment as sufficient to guarantee conformity with the permit issued hereunder. Those operations existing prior to the adoption of this bylaw shall be exempt from posting a surety bond.

## 7.6 **Mobile Home and Travel Trailer Occupancy and Mobile Home Parks:**

### 1. **General Regulations:**

- a. No permit is required for a trailer, trailer coach, mobile home, bus, or travel trailer used as a temporary office or temporary shelter to a construction or logging operation on the premises, provided that all dimensional requirements for the district are satisfied.
- b. A registered travel trailer may be occupied on any lot by a non-paying guest of the occupant of such lot for a period not exceeding thirty days in any twelve-month period.

### 2. **Mobile Home as a Dwelling:**

- a. A mobile home may be used as a one-family dwelling provided that it is located on a lot meeting all of the requirements of this bylaw applicable to a one-family dwelling in the district in which it is located, is suitably anchored to a permanent concrete foundation and complies with Vermont Agency of Natural Resources requirements.
- b. A mobile home shall be enclosed by some form of permanent skirting.
- c. A mobile home may be used as a dwelling, without meeting the setback requirements of the district in which it is located, by the owner of the lot upon which the mobile home is located, for a period not exceeding one year, provided that the owner is actively constructing a residence thereon for which a valid building permit has been obtained.

### 3. **Mobile Home Park:** No person shall construct or occupy a mobile home park without first obtaining site plan approval from the Planning Commission and conditional use approval from the ZBA, as well as any required state permits. The following additional requirements also apply to any mobile home park:

- a. The lot occupied by a mobile home park shall be not less than 2 acres.
- b. The maximum density allowed in a mobile home park is 4 mobile home units per acre of lot area.
- c. Mobile home parks shall provide for individual mobile home lots, access driveways, parking, and recreation and open space.

- d. Each mobile home site must have frontage onto an access driveway which must include a right-of-way of at least 50 feet in width, and have a gravel surface at least 24 feet in width and a compacted gravel base of at least 12 inches.
- e. At least 8,000 square feet of lot area for each mobile home site shall be provided. Each mobile home shall be located a minimum of 15 feet from its individual lot line.
- f. At least two vehicle parking spaces per mobile home shall be provided. Pedestrian walkways must be provided to allow for safe movement within the mobile home park.
- g. A buffer strip of land, at least 50 feet in width, shall be maintained as a landscaped area abutting all property lines and public road frontage of the mobile home park. No structures shall be permitted within this buffer strip.
- h. Each mobile home site must have an approved water supply and sewage disposal system.
- i. The base of each mobile home shall be adequately skirted.
- j. Open space occupying not less than 10 percent of the gross area of the mobile home park shall be required, conveniently located to all mobile home sites. Such open space shall be suitably landscaped and equipped for recreational purposes.
- k. The operator of a mobile home park shall maintain all parts of the facility in good condition and shall provide for the collection and removal of waste and garbage.
- l. The operator of the mobile home park shall provide for snow removal from all roads and driveways and shall maintain safe conditions on roads and driveways at all times.

### **7.7 Cluster Subdivision:**

1. **Purpose:** The purpose of cluster subdivision is to enable and encourage flexibility of design and development of tracts of land for one and two-family dwellings in groups, so as to promote the most appropriate use of land, to facilitate the economical provision of streets and utilities, and to enhance the environmental quality of the area through maximum preservation of open space.
2. **Where Permitted:** Cluster subdivision may be permitted by the Planning Commission in accordance with all applicable sections of this bylaw and the municipal subdivision regulations in Rural Residential (RR) and Forest #1 (F1) zoning districts.

Cluster subdivisions may include reserved open space on that portion of a tract of land that is located within the Forest # 2 (F2) zoning district; all development must occur within the RR or F1 districts, although land in the F2 district may be considered in calculating the density of dwellings, as provided in Section 7.6.4.

### **3. Permitted Uses in Cluster Subdivisions:**

- a. One-family dwellings and two-family dwellings;
  - b. Customary home occupations;
  - c. Any other permitted use in the district in which the cluster subdivision is located. Uses conditionally permitted in the underlying district are conditionally permitted in cluster subdivisions in accordance with the provisions of Section 3.7;
  - d. Accessory uses conforming to the requirements of the district in which the subdivision is located.
4. **Density of Dwellings:** In cluster subdivisions, the total number of dwelling units shall not exceed the number which could be permitted if the parcel were subdivided into lots conforming to the provisions of Section 4.5 (Rural Residential District) or Section 5.5 (Forest #1 District), or Section 6.5 (Forest #2

District). For tracts of land lying in more than one district, the maximum number of dwelling units shall be determined by calculating the number of lots that could be permitted within each district individually, and then adding those results together. (See example below)

**Example:**

*Lot X includes 10 acres of land in the RR district (2 acre minimum lot size), 32 acres of land in the F1 district (5 acre minimum lot size), and 110 acres of land in the F2 district (25 acre minimum lot size). The maximum number of dwelling units allowed in a cluster subdivision would be:*

RR:	10 acres/ 2 acres per D.U.=	5 dwelling units
F1:	32 acres/5 acres per D.U.=	6 dwelling units
F2:	110 acres/25 acres per D.U.=	4 dwelling units
<hr/>		
TOTAL:		15 dwelling units *

*\*Must all be located within the RR or F1 District.*

5. **Lot Dimensional Requirements:** Individual lots in a cluster subdivision may be reduced in required area, width, and yard dimensions in conformance with the Vermont Agency of Natural Resources regulations. The minimum area for a lot in a cluster subdivision shall be one (1) acre.
6. **Sewage Disposal:** The method and installation of facilities for sewage disposal on every lot shall be subject to all of the applicable provisions of state sewage regulations.
7. **Open Space:** The land area not included in building lots or in streets or parking areas shall be permanently preserved as open space for recreation, conservation, or agriculture. Such open space shall be of character, size, extent, and shape suitable for the above purposes. Such open space shall contain not less than 50 percent of the gross area of the subdivision. No future development of land designated as open space shall be permitted for other than recreation, conservation, or agricultural uses.
8. **Ownership of Open Space:** Land to be preserved as open space in cluster subdivisions shall be dedicated to a community association or other entity, as herein provided.

As a condition of the approval of the site plan for a cluster subdivision, the applicant shall organize a non-profit community association, corporation or cooperative, organized under the laws of the State of Vermont, composed of all present and future owners of lots in such subdivision, and shall submit a set of deed restrictions or covenants that run with the land and shall record the same in the Sandgate Land records. Such non-profit community association, corporation, or cooperative shall be responsible for maintenance of all common open space, roadways, and other common elements of the development.

**7.8 Satellite Television Antennas, Windmills and Solar Collectors:**

No zoning permits shall be required for the erection of a satellite television antenna, windmill, or solar energy collector as an accessory to a permitted use of the land, provided its height does not exceed 50 feet.

**7.9 Communication and Digital TV Towers:**

Refer to Sandgate “Wireless Telecommunication Facility Ordinance”

**7.10 Agricultural Buildings:**

Agricultural Buildings will not require municipal permits, but notification in writing will be filed with the town clerk of the intent to build a farm structure and shall abide by setbacks approved by the commissioner of agriculture, food and markets before any construction. “Farm structure” means a building for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with agricultural or farming practices, including a silo, as “farming” is defined in 10 V.S.A. 1021 (f), 6 V.S.A. 4810, and 24 V.S.A. 4413 (d) but excludes a dwelling for human habitation.

## **7.11 Family Child Care Facility**

Pursuant to 24 V.S.A. Section 4413(5), a state licensed or registered family child care home serving six or fewer children shall be considered to constitute a permitted single-family residential use of property. A family child care home serving no more than six full-time and four part-time children, as defined in 33 V.S.A. Section 4902(3)(A), shall be considered to constitute a permitted single-family residential use of property, but shall be subject to site plan approval pursuant to Section 8.3 of this Bylaw. A family child care home serving in excess of six full-time and four part-time children may be permitted as a conditional use in the RR and F1 Districts only.

## **7.12 Flood Hazard Regulations**

### **I. Statutory Authorization and Effect**

In accordance with 10 V.S.A. Chapter 32, and 24 V.S.A. Chapter 117 §4424, §4411 and §4414, there is hereby established a bylaw for areas at risk of flood damage in the Town of Sandgate Vermont. Except as additionally described below, all administrative procedures follow municipal procedures under 24 VSA Chapter 117.

### **II. Statement of Purpose**

It is the purpose of this bylaw to:

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

### **III. Other Provisions**

#### **A. Precedence of Bylaw**

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

#### **B. Validity and Severability**

If any portion of this bylaw is held unconstitutional or invalid by a competent court, the remainder of this bylaw shall not be affected.

#### **C. Warning of Disclaimer of Liability**

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

#### **IV. Lands to Which these Regulations Apply**

##### **A. Regulated Flood Hazard Areas**

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

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

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

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

##### **C. Interpretation**

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

1. If uncertainty exists with respect to the boundaries of the Special Flood Hazard Area or the floodway, the location of the boundary shall be determined by the Zoning Administrator (ZA). If the applicant disagrees with the determination made by the ZA, a Letter of Map Amendment from FEMA shall constitute proof.
2. If uncertainty exists with respect to the boundaries of the Fluvial Erosion Hazard Zone, the location of the boundary shall be determined by the ZA. If the applicant disagrees with the determination made by the ZA, a letter of determination from the Vermont Agency of Natural Resources shall constitute proof.

#### **V. Summary Table: Development Review in Hazard Areas**

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

#	Activity	Hazard Zone		
		Special Flood Hazard Area	Floodway	FEH Zone
	<b>P</b> Permitted <b>C</b> Conditional Use Review <b>X</b> Prohibited <b>A</b> Exempted			
1	New Structures	X	X	X
2	Storage	X	X	X
3	Improvements to Existing Structures	P, C	C	C
4	Small Accessory Structures	P	X	C
5	At Grade Parking	P	C	C
6	Replacement water supply or septic systems	C	C	C
8	Fill as needed to elevate existing structures	C	C	C
9	Fill	X	X	X
12	Grading	C	C	C
13	Road maintenance	A	A	A
14	Road improvements	C	C	C
15	Bridges and culverts	C	C	C
16	Channel management	C	C	C
17	Recreational vehicles	P	P	P
18	Open space, recreation	A	A	A
19	Forestry	A	A	A
20	Agriculture	A	A	A

## **VI. Development Review in Hazard Areas**

### **A. Permit**

A permit is required from the Zoning Administrator (ZA) for all development in all areas defined in Section IV. Development that requires conditional use approval, non-conforming use approval, or a variance from the Zoning Board of Adjustment (ZBA) under these flood hazard regulations, must have such approvals prior to the issuance of a permit by the ZA. Any development subject to municipal jurisdiction in the designated hazard areas shall meet the criteria in Section VI and VII. Any permit issued will require that all other necessary permits from State or Federal Agencies have been received before work may begin.

### **B. Permitted Development**

For the purposes of review under these regulations, the following development activities in the Special Flood Hazard area where outside of the floodway and outside of the Fluvial Erosion Hazard Zone, and meeting the Development Standards in Section VII, require only an administrative permit from the ZA:

1. Non-substantial improvements;
2. Accessory structures;
3. Development related to on-site septic or water supply systems;
4. Building utilities;
5. At-grade parking for existing buildings; and,
6. Recreational vehicles.

### **C. Prohibited Development in Special Flood Hazard Area and Fluvial Erosion Hazard Zone**

1. New residential or non-residential structures (including the placement of manufactured homes);
2. Storage or junk yards;
3. New fill except as necessary to elevate structures above the base flood elevation;
4. Accessory structures in the floodway;
5. Critical facilities are prohibited in all areas affected by mapped flood hazards; and,

6. All development not exempted, permitted, or conditionally permitted.

#### **D. Conditional Use Review**

Conditional use review and approval by the ZBA, is required prior to the issuance of a permit by the ZA for the following proposed development:

1. Substantial improvement, elevation, relocation, or flood proofing of existing structures;
2. New or replacement storage tanks for existing structures;
3. Improvements to existing structures in the floodway;
4. Grading, excavation; or the creation of a pond;
5. Improvements to existing roads;
6. Bridges, culverts, channel management activities, or public projects which are functionally dependent on stream access or stream crossing;
7. Public utilities;
8. Improvements to existing primary structures in the Fluvial Erosion Hazard Zone that do not expand the footprint of the existing structure more than 500 square feet;
9. Accessory structures in the Fluvial Erosion Hazard Zone, of 500 square feet or less, that represent a minimal investment
10. Building utilities in the Fluvial Erosion Hazard Zone; and,
11. At-grade parking for existing buildings in the Fluvial Erosion Hazard Zone.

#### **E. Exempted Activities**

The following are exempt from regulation under this bylaw:

1. The removal of a building or other structure in whole or in part;
2. Maintenance of existing roads and storm water drainage;
3. Silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices; and,
4. Agricultural activities conducted in accordance with the Vermont Department of Agriculture's Accepted Agricultural Practices (AAP). Prior to the construction of farm structures the farmer must notify the ZA in writing of the proposed activity. The notice must contain a sketch of the proposed structure including setbacks.

#### **F. Variances**

Variances may be granted in writing by the ZBA only in accordance with all the criteria in 24 V.S.A. § 4469, § 4424 (E), and 44 CFR Section 60.6, after a public hearing noticed as described in Section VIII.

1. A variance for development within the Fluvial Erosion Hazard Zone may be allowed if, based on a review by VT ANR, it is determined that the proposed development will not obstruct the establishment and maintenance of fluvial geomorphic equilibrium for the watercourse.
2. Any variance issued in the Special Flood Hazard Area will not increase flood heights, and will inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

#### **G. Nonconforming Structures and Uses**

The ZBA may, after public notice and hearing, approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a flood hazard area provided that:

1. The proposed development is in compliance with all the Development Standards in Section VII of this bylaw;
2. A nonconforming structure that is substantially damaged or destroyed may be reconstructed only in circumstances when the structure cannot be relocated to a less hazardous location on the parcel. The lowest floor of the reconstructed structure must be rebuilt to one foot or more above the base

- flood elevation, and the structure must otherwise comply with all requirements of the National Flood Insurance Program;
3. Nonconforming structures or uses shall be considered abandoned where such structures or uses are discontinued for more than 12 months; and
  4. An individual manufactured home lot in an existing manufactured home park that is vacated shall not be considered a discontinuance or abandonment of nonconformity. Replacement manufactured homes must be placed so as to meet the development standards in this bylaw.

## **VII. Development Standards**

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

### **A. Special Flood Hazard Area**

1. *All development shall be:*
  - a. Reasonably safe from flooding;
  - b. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
  - c. Constructed with materials resistant to flood damage;
  - d. Constructed by methods and practices that minimize flood damage;
  - e. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
  - f. Adequately drained to reduce exposure to flood hazards;
  - g. Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and,
  - h. Required to locate any fuel storage tanks (as needed to serve an existing building in the Special Flood Hazard Zone) a minimum of one foot above the base flood elevation and be securely anchored to prevent flotation; or storage tanks may be placed underground, if securely anchored as certified by a qualified professional.
2. In Zones AE, AH, and A1 – A30 *where base flood elevations and/or floodway limits have not been determined*, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 1.00 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a licensed professional engineer.
3. *Structures to be substantially improved* in Zones A, A1-30, AE, and AH shall be located such that the lowest floor is at least one foot above base flood elevation, this must be documented, in as-built condition, with a FEMA Elevation Certificate;
4. *Non-residential structures to be substantially improved shall:*
  - a. Meet the standards in VII A 3; or,
  - b. Have the lowest floor, including basement, together with attendant utility and sanitary facilities be designed so that two feet above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; A permit for flood proofing shall not be issued until a licensed professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.
5. *Fully enclosed areas below grade* on all sides (including below grade crawlspaces and basements) are prohibited.

6. *Fully enclosed areas that are above grade*, below the lowest floor, below BFE and subject to flooding, shall
  - a. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and,
  - b. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a licensed professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
7. *Recreational vehicles* must be fully licensed and ready for highway use;
8. A *small accessory* structure of 500 square feet or less that represents a minimal investment need not be elevated to the base flood elevation in this area, provided the structure is placed on the building site so as to offer the minimum resistance to the flow of floodwaters and shall meet the criteria in VII A 6 (above).
- 9.. *Water supply systems* shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- 10.. *Sanitary sewage systems* shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
11. *On-site waste disposal systems* shall be located to avoid impairment to them or contamination from them during flooding.
12. *The flood carrying and sediment transport capacity* within the altered or relocated portion of any watercourse shall be maintained, and any alteration or relocation shall not result in any decrease of stream stability;
13. *Bridges and culverts*, which by their nature must be placed in or over the stream, must have a stream alteration permit from the Agency of Natural Resources where applicable.
- 14 *Subdivisions and Planned Unit Developments must be accessible by dry land* access outside the special flood hazard area.
15. *Existing buildings, including manufactured homes, to be substantially improved in Zone AO* shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least as high as the depth number specified on the community's FIRM, or at least two feet if no depth number is specified.

## **B. Floodway Areas**

1. Encroachments or development above grade and less than one foot above the base flood elevation, are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a licensed professional engineer, certifying that the proposed development will:
  - a) Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood;
  - b) Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.
2. Public utilities may be placed underground, and the analyses may be waived, where a licensed professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.

## **C. Fluvial Erosion Hazard Zone**

1. Improvements to existing structures, and any associated fill as needed to comply with elevation requirements in the Special Flood Hazard Area shall not decrease the distance between the existing primary building and the top of bank;
2. Accessory structures may be located within 50 feet of the existing primary building provided that the location does not decrease the distance between the existing primary structure and the top of bank.
3. Development shall not increase the susceptibility of that or other properties to fluvial erosion damage;
4. Development shall not increase the potential of materials being swept onto other lands or into the stream and causing damage to other properties from fluvial erosion;
5. Development shall not cause an undue burden on public services and facilities including roads, bridges, culverts, and emergency service providers during and after fluvial erosion events.
6. Bridge and culvert projects must have a Stream Alteration Permit; and
7. Channel management activities must be authorized by the Agency of Natural Resources.

## **VIII. Administration**

### **A. Application Submission Requirements**

Applications for development shall include:

1. Where applicable, a site plan that depicts the proposed development, all water bodies, Special Flood Hazard Areas, floodways, Fluvial Erosion Hazard Zone, the shortest horizontal distance from the proposed development to the top of bank of any stream, any existing and proposed drainage, any proposed fill, and pre and post development grades, and the elevation of the proposed lowest floor, as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps;
2. A Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet shall identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the municipal permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the ZA and attached to the permit before work can begin;

### **B. Referrals**

1. Upon receipt of a complete application for a substantial improvement or new construction the ZA shall submit a copy of the application and supporting information to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, in accordance with 24 V.S.A. § 4424. A permit may be issued only following receipt of comments from the Agency, or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.
2. If the applicant is seeking a permit for the alteration or relocation of a watercourse, copies of the application shall also be submitted to the adjacent communities, the Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. Copies of such notice shall be provided to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation. A permit may be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Vermont Agency of Natural Resources, whichever is sooner. The Board should consider comments from the NFIP Coordinator at ANR.

### **C. Decisions**

The ZBA shall consider comments from the NFIP Coordinator at ANR. The ZBA may recess the proceedings on any application pending submission of additional information.

### **D. Records**

The Administrative Officer shall properly file and maintain a record of:

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

## **IX Certificate of Occupancy**

In accordance with Chapter 117 §4449, it shall be unlawful to use or occupy, or permit the use or occupancy of any land or structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure within Special Flood Hazard Area or Fluvial Erosion Hazard Zone until a certificate of occupancy is issued therefore by the Administrative Officer, stating that the proposed use of the structure or land conforms to the requirements of these bylaws. A certificate of occupancy is not required for structures that were built in compliance with the bylaws at the time of construction and have not been improved since the adoption of this bylaw. Within 14 days of the receipt of the application for a certificate of occupancy, the ZA shall inspect the premises to ensure that all permits identified on the Project Review Sheet have been acquired and all that all work has been completed in conformance with the zoning permit and associated approvals. If the ZA fails to grant or deny the certificate of occupancy within 14 days of the submission of the application, the certificate shall be deemed issued on the 15<sup>th</sup> day. If a Certificate of Occupancy cannot be issued, notice will be sent to the owner and copied to the lender.

## **X. Enforcement and Penalties**

A. This bylaw shall be enforced under the municipal zoning bylaw in accordance with 24 VSA Chapter 117 § 1974a, § 4451, and § 4452. A copy of the notice of violation will be mailed the State NFIP Coordinator.

B. If any appeals have been resolved, but the violation remains, the ZA shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the property pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

C. Violations of the Accepted Agricultural Practices shall be enforced under this Section as violations of this bylaw. Such violations shall also be immediately reported to the Secretary of Agriculture for enforcement under 6 V.S.A. Section 4812.

## **XI. Flood Hazard Regulation Definitions**

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

**Area of Special Flood Hazard:** Synonymous in meaning with the phrase “special flood hazard area” for the purposes of these regulations.

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

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

**BFE:** See Base Flood Elevation

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

**Channel width:** (or bankfull width) The width of a stream channel when flowing at a bankfull discharge. The bankfull discharge is the flow of water that first overtops the natural banks. This flow occurs, on average, about once every 1 to 2 years.

**Common plan of development:** is where a structure will be refurbished over a period of time. Such work might be planned unit by unit.

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

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

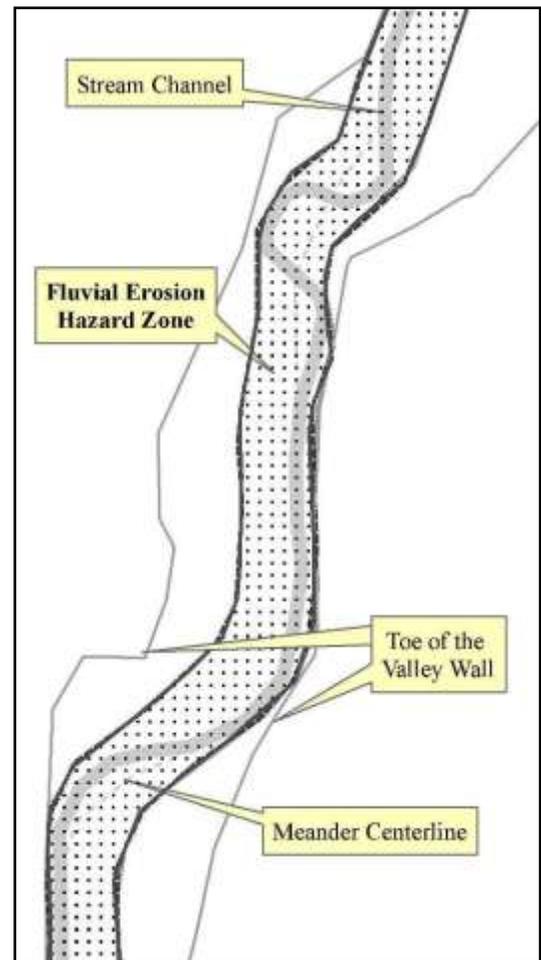
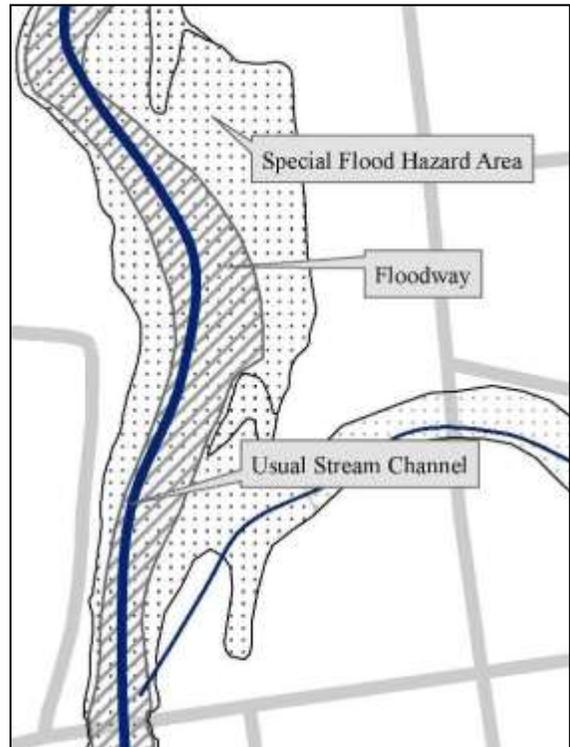
**Fill:** means any placed material that changes the natural grade, increases the elevation, or diminishes the flood storage capacity at the site.

**FIRM:** see Flood Insurance Rate Map

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

**Flood Insurance Rate Map (FIRM):** means an official map of a community, on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. In some communities the hazard boundaries are available in paper, pdf, or Geographic Information System formats as a Digital Flood Insurance Rate Map (DFIRM).

**Flood Insurance Study:** means an examination, evaluation and determination of flood hazards and, if appropriate, the



corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.

**Floodplain or flood-prone area:** means any land area susceptible to being inundated by water from any source (see definition of “flood”).

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

**Floodway:** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. Please note that Special Flood Hazard Areas and floodways may be shown on a separate map panels.

**Floodway, Regulatory in Town of Sandgate:** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

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

**Fluvial Erosion Hazard Zone:** includes the stream and adjacent lands necessary to accommodate the slope and plan form requirements of a geomorphically stable channel, and is subject to fluvial erosion as defined by the Vermont Agency of Natural Resources and delineated on the current Fluvial Erosion Hazard Zone Map.

**Functionally dependent use:** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

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

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

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

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

**New construction:** for regulation under this bylaw, means structures for which the *start of construction* commenced on or after the effective date of the floodplain management regulation adopted by the community and includes any subsequent improvements to such structures.

**Nonconforming structure:** means a structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the administrative officer. Structures that

were in violation of the flood hazard regulations at the time of their creation, and remain so, remain violations and are not nonconforming structures.

**Nonconforming use:** means use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the administrative officer.

**Nonconformity:** means a nonconforming use, structure, lot, or parcel.

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

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

**Special Flood Hazard Area:** is the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. For purposes of these regulations, the term “area of special flood hazard” is synonymous in meaning with the phrase “special flood hazard area”. This area is usually labeled Zone A, AE, AO, AH, or A1-30 in the most current flood insurance studies and on the maps published by the Federal Emergency Management Agency. Maps of this area are available for viewing in the municipal office or online from the FEMA Map Service Center: [msc.fema.gov](http://msc.fema.gov). Base flood elevations have not been determined in Zone A where the flood risk has been mapped by approximate methods. Base flood elevations are shown at selected intervals on maps of Special Flood Hazard Areas that are determined by detailed methods. Please note, where floodways have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps.

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

**Structure:** means, for regulatory purposes under this bylaw, a walled and roofed building, as well as a manufactured home, and any related built systems, including gas or liquid storage tanks.

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

**Substantial improvement:** means any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of this bylaw, the cost of which, over three years, or over a the period of a common plan of development, cumulatively equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the

minimum necessary to assure safe living conditions or (b) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

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

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

## **SECTION 8 - ADMINISTRATION AND ENFORCEMENT**

The provisions of this bylaw shall be administered by the Zoning Administrator, appointed by the Planning Commission with the approval of the Selectboard, as provided by law. The Zoning Administrator shall literally enforce the provisions of these regulations, inspect land developments, maintain records of all actions, and perform all other necessary and required tasks to carry out the provisions of these regulations and the duties of the office.

### **8.1 Permits:**

1. Before any land, building, or accessory building is devoted to a new use or changed use, or before the erection, expansion, or relocation of any building or accessory building, a zoning permit therefor shall be obtained from the Zoning Administrator. Application for such permit shall be made on a prescribed form accompanied by a fee as set by the Selectboard. Before issuing any such permit, the Zoning Administrator shall certify that the proposed building or use complies with all the provisions of this bylaw.
2. Any development requiring a new or approved access drive onto a town road requires an access permit from the Sandgate Selectboard.
3. The Zoning Administrator shall maintain a full and accurate record of all applications, permits, and violations acted upon, which records shall be filed with the Board of Listers of the Town and the Town Clerk. Permits shall be voided in the event of misrepresentation or failure to undertake construction within 12 months of the date of approval.
4. If the Zoning Administrator fails to act with regard to an application for a permit within 30 days from the date of receipt of a complete application, a permit shall be deemed issued on the 31st day,
5. Each zoning permit issued shall contain a statement of the period of time within which an appeal may be taken. No permit shall take effect until the time for appeal has passed, as provided for in 24 V.S.A. 4465. If an appeal is taken, the permit shall not take effect until final adjudication of the appeal by the appropriate municipal panel or environmental court, as provided for in 24 V.S.A. 4449. Within three days of the issuance of a zoning permit, the Administrator shall post the permit on the town bulletin boards in Sandgate and file a copy with the Board of Listers. Permits shall remain posted for at least 15 days from the date of issuance. A notice of permit also shall be posted at a location within view from the public right-of-way most nearly adjacent to the subject property until the time for appeal has passed.
6. Permit forms may be obtained from the Zoning Administrator, the Town Clerk or the official Sandgate website, sandgatevermont.org.
7. No zoning permits shall be issued for a building or structure, the useful occupancy of which requires a sewage disposal system, until the Vermont Agency of Natural Resources has granted a permit.
8. No zoning permit shall be issued for a building, structure, or use on a lot created in violation of any Vermont Agency of Natural Resources or Sandgate zoning, or subdivision regulation, until such time that all valid permits required for the creation of such lots are obtained and submitted to the Zoning Administrator.

**8.2 Interpretation of Bylaws:** In their interpretation and application, the provisions of this bylaw shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare. It is not intended by this bylaw to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of any law or ordinance, or any rules, regulations, or permits previously adopted or issued, which shall be adopted or issued pursuant to any law or ordinance, relating to the use of buildings or premises; nor is it intended by this bylaw to interfere with or abrogate or annul any easements, covenants, or other agreement between parties, provided, however, that where this bylaw imposes a greater restriction upon the use of buildings or premises, or upon the height of buildings, or requires larger yards, courts, or other open spaces than are imposed or required by existing provisions of law or ordinance, or by such rules, regulations, or permits, or by such easements, covenants, or agreements, the provisions of this bylaw shall control.

**8.3 Site Development Plan:** Where required by provisions of this bylaw, a site development plan shall be submitted with an application for a permit or other approval. No permits shall be issued until the Planning Commission or the ZBA has approved the site development plan in the case of conditional use applications. Such site development plan shall be at a scale prescribed by the Planning Commission or ZBA and shall show, where applicable, the boundaries and area of the lot, existing and proposed buildings on the lot and on adjacent lots within a distance of 200 feet from the subject lot, proposed vehicular circulation and parking, proposed pedestrian circulation, open space, park and playground facilities, landscape details, proposed drainage and natural drainage-ways and water-courses, existing contours, land conditions, and such other information as the Planning Commission or ZBA may require.

**8.4 Waivers:** When renovation or expansion is proposed for a residential structure, a waiver of setback or other dimensional requirements may be approved by the ZBA if the following standards are satisfied:

1. The new or renovated part of the building does not extend beyond the existing nonconforming structure, unless needed to accomplish the intended goal (an expanded, improved entry deck, for example).
2. The result will improve the property and the neighborhood.
3. The result will not alter the character of the neighborhood, impair reasonable or appropriate use of adjoining properties, nor cause harm to the public welfare.
4. The result is helpful or necessary to allow for continued reasonable use of the property.
5. The proposed work or construction does not encroach any more than necessary to accomplish the desired results.

**8.5 Variances:** On an appeal from the decision of the Zoning Administrator, where a variance from the strict requirements of this bylaw is requested the ZBA must adhere to and act strictly within the limitations of 24 V.S.A. Section 4469. The Board may render a decision in favor of the appellant only if it makes a positive finding on all of the following facts:

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

5. That the variance, if authorized, will represent the minimum variance affording relief and will represent the least deviation possible from the zoning bylaw and the town plan.
- 8.6 Appeals:** An interested person, as defined in 24 V.S.A. Section 4465, may appeal any decision or act taken by the Zoning Administrator by filing a notice of appeal, accompanied by the appropriate fee as set by the Selectboard, with the Secretary of the ZBA. Such notice of appeal of a decision of the Zoning Administrator must be filed within 15 days of the decision or act, and a copy of the notice of appeal shall be filed with the Zoning Administrator.
- 8.7 Penalties and Remedies:** Any person who violates the provisions of this bylaw shall be subject to the penalties and remedies prescribed in 24 V.S.A. Sections 4451 and 4452.
- 8.8 Validity:** If any section or provision of this bylaw is adjudged to be unconstitutional or otherwise invalid such decision shall not affect the validity of this bylaw as a whole, or any part thereof other than the part so adjudicated.
- 8.9 Public Notice:** Any public notice required for public hearing under this bylaw shall be given as required by law.
- 8.10 ZBA:** There shall be a ZBA created as provided by Section 4460 through Section 4471 inclusive, of the Vermont Planning and Development Act, as amended, with the power and duties as provided therein.
- 8.11 Amendments:** This bylaw, or the boundaries of zoning districts established herein, may be amended from time to time after a public hearing, as provided by Sections 4441, 4442, and 4444 of the Vermont Planning and Development Act.

## **SECTION 9 – MAPS**

The maps included in the Town Plan are also included in this Bylaw. Map 8, “Land Use Plan” shows the boundaries of the Rural Residential, Forest #1 and Forest #2 Districts.

