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## ARTICLE V. DEVELOPMENT REVIEW

### Section 5.01 Applicability of Development Review Standards

- A. **Conditional Use Review** standards shall apply to those uses designated as conditional uses in Article II, or as otherwise specified under Articles III (General Regulations) and IV (Specific Use Standards). Such uses are subject to conditional use review by the Development Review Board under Section 5.03.
- B. **Flood and Fluvial Erosion Hazard Area Review** standards under section 5.03(E) and (F) shall apply to all development, as defined for these purposes in Section 7.03, within the Flood or Fluvial Erosion Hazard Area Overlay Districts, and listed in Table 2.10, and Table 2.11. Development listed under Subsection C of the overlay district tables as “conditional uses” is subject to conditional use review under Section 5.03, including all applicable standards under subsections (E) and (F).
- C. **Planned Residential and Planned Unit Development (PRD, PUD)** standards shall apply to all major subdivisions, as defined under Article VII, which are located in the Agricultural-Residential and Adaptive Redevelopment Overlay Districts, and all subdivisions located in the Industrial and Forest Reserve District; and may be applied to other subdivisions of land at the request of the applicant. Such subdivisions are subject to review by the Development Review Board under Section 5.04 and the *Waitsfield Subdivision Regulations* currently in effect.
- D. All **Subdivisions** are subject to review by the Development Review Board in accordance with the *Waitsfield Subdivision Regulations*.

### Section 5.02 Application Requirements

- A. **Conditional Use Review.** An applicant for conditional use, flood or fluvial erosion hazard area review shall submit, in addition to zoning permit application requirements under Section 6.01, one original and three complete copies of a site development plan to include the following information, unless otherwise specifically waived by the Development Review Board:
  - 1. The names and addresses of the property owner(s) of record, the applicant if different from the property owners, and the person(s) or firm preparing the application and plan.
  - 2. The names and addresses of all adjoining property owners, as determined from the current Waitsfield Grand List.
  - 3. A project description, including parcel identification number(s); the proposed use or activity; total lot area, lot coverage and square footage; zoning district(s) in which the property is located; and the construction sequence and timing schedule for the completion of each phase of the development, including structures, infrastructure, parking areas, and landscaping and site reclamation.
  - 4. A site location map (1 inch to 1000 feet) showing the location of proposed development in relation to properties, surface waters and drainage, land uses, roads and utilities within the vicinity of the development; and
  - 5. A site plan (24" x 36"), drawn to scale, which shows the following:

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- a. the name of the project, north arrow, scale and application date;
  - b. the name, address, and license or certification information of the preparer;
  - c. existing and proposed property boundaries, rights-of-way, and easements;
  - d. zoning district boundaries;
  - e. existing site features, including contours, elevations, and prominent topographic features; surface waters, wetlands and associated buffers; land use and vegetative cover, including large trees; designated floodplain and source protection areas; critical habitat areas, and historic sites;
  - f. cross-sections or profiles for roads, extraction, cut and fill areas, and for areas of steep slope (15% or more) to be developed;
  - g. existing and proposed structures, including building footprints and elevations, walls and fence lines, utilities, roads, driveways, pedestrian paths, parking and loading areas;
  - h. existing and proposed traffic and pedestrian circulation patterns, including access to or proposed connections with adjoining properties, public roads and public waters, and paths or trails;
  - i. water supply and wastewater disposal design details; and
  - j. proposed site grading, drainage, landscaping, screening, signage, waste receptacles and/or lighting details.
6. Any additional information or studies as required by the Development Review Board to determine project conformance with the provisions of these regulations. Such studies shall be funded by the applicant, and be performed by a qualified professional selected jointly by the applicant and Board.
  7. The Development Review Board may waive one or more of the required submission materials in the event they determine that the information is not necessary for a thorough review of the application due to existing site conditions and/or the limited scale and/or intensity of the project.
  8. For development in the Flood Hazard Area Overlay (FHO) District, the application shall also include on the site plan, or in associated attachments:
    - a. base flood elevation data;
    - b. the elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings;
    - c. the elevations, in relation to mean sea level, of streets, water supply and sanitary facilities;
    - d. the elevation, in relation to mean sea level, to which buildings will be floodproofed;
    - e. a description of proposed floodproofing measures, and certification from a registered professional engineer or architect that the floodproofed structure meets all applicable floodproofing criteria under subsection F;
    - f. a typical cross-section showing the stream channel, elevation of adjoining lands, and areas to be occupied by the proposed development;
    - g. a profile showing the slope of the bottom of the channel or flow line of the stream;
    - h. a description of the extent to which any watercourse will be altered; and
    - i. a report prepared for submission to the Vermont Department of Environmental Conservation in accordance with state agency referral requirements under Section 6.01.

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- j. An ANR project review sheet or equivalent that identifies required state permits and approvals, as described in Section 6.07(A)1.
9. For development in the Fluvial Erosion Hazard Area Overlay (FEHO) District, the application shall also include on the site plan or in associated attachments:
    - a. FEH Overlay District boundaries on the site or subdivision plan, drawn to scale, as measured horizontally from the top of the stream bank or, if no stream bank is apparent, the centerline of the stream channel, as well as the location of all existing and proposed structures, roads, driveways, infrastructure, utilities, rights-of-way and other site improvements in relation to district boundaries;
    - b. identification on the site or subdivision plan of the horizontal distances from the streambank or channel centerline to the nearest structure and road;
    - c. written justification of need to develop within, rather than outside of, the FEH Overlay District; and,
    - d. as described in Section 6.07(A)1, a state project review sheet or equivalent that identifies required state permits and approvals.
  10. **Application Referral Requirements.** Completed applications for development within the Flood Hazard or Fluvial Hazard Area Overlay District and supporting information shall be referred by the Administrative Officer to the state for review, as specified below. No municipal permit or approval shall be issued for the development until comments have been received from the state, or 30 days have elapsed from the date of referral, whichever is sooner. State recommendations shall be incorporated as applicable in municipal findings and decisions.
    - a. Applications for development within the Flood Hazard Area Overlay District shall be submitted to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources.
    - b. Applications for development within the Fluvial Erosion Hazard Area Overlay District shall be submitted to the River Management Program at the Vermont Agency of Natural Resources.
    - c. If the application includes the proposed alteration or relocation of a watercourse, copies of the application shall also be submitted to adjacent municipalities, the Stream Alteration Engineer and the Vermont Agency of Natural Resources, and the Army Corps of Engineers, as well as the State NFIP Coordinator.
- B. Planned Residential and Planned Unit Developments (PRDs and PUDs).** Applications for PRD or PUD approval shall be submitted simultaneously with applications for major subdivision review in accordance with the requirements set forth in the *Waitsfield Subdivision Regulations*. In addition to the information required for subdivision review described in those regulations, applications for PRDs and/or PUDs must include the following:
1. A statement setting forth the nature of all proposed modifications or changes of existing land use and development regulations and the standards and criteria which the applicant proposes for the development, including standards for the design, bulk and spacing of buildings and sizes of lots and open spaces; and
  2. A brief summary of the project and how it meets the standards in this section.

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3. Additional information required by the Development Review Board to determine whether the proposed mix of uses, density and scale and intensity of uses will meet the standards set forth in these regulations.
- C. The application shall not be considered complete until all required forms, information and associated fees have been submitted. The Development Review Board may waive one or more application requirements upon determination that the information is unnecessary for the comprehensive review of the application. Such waiver shall be made at the time the application is accepted and deemed complete.

### **Section 5.03 Conditional Use Review**

- A. **Applicability.** No zoning permit shall be issued by the Administrative Officer for any use or structure which requires conditional use approval until the Development Review Board grants such approval in accordance with the Act [§4414(3)], and the following standards and procedures.
- B. **Review Process.** Upon determination that the application as submitted is complete, the Development Review Board shall schedule a public hearing, warned in accordance with Section 6.07. The Board shall act to approve, approve with conditions, or disapprove an application for conditional use review within 45 days of the date of the final public hearing; and shall issue a written decision. The written decision shall include a statement of the factual bases on which the Board made its conclusions, a statement of those conclusions, any conditions, and shall specify the period of time within which the decision may be appealed to the Environmental Court. Failure to act within the 45 day period shall be deemed approval.
- C. **General Standards.** Conditional use approval shall be granted by the Development Review Board upon finding that the proposed development will not result in an undue adverse impact on any of the following:
1. **The capacity of existing or planned community services or facilities.** The Board shall consider the demand for community services and facilities resulting from the proposed development in relation to the available or planned capacity of such services and facilities. Available capacity may be determined in part through consultation with other municipal and/or state officials having jurisdiction over affected services and facilities. Conditions may be imposed as appropriate to ensure that the demand for community facilities or services does not exceed existing or anticipated available capacity.
  2. **The character of the area affected.** The Board shall consider the location, scale, type, density and intensity of use associated with the proposed development in relation to the character of the area likely to be affected. The character of the area shall be determined by the Board based on the Waitsfield Town Plan, applicable zoning district purposes and standards, and submitted materials and testimony. Conditions may be imposed as appropriate to ensure project compatibility with the character of the area affected.
  3. **Traffic on roads and highways in the vicinity.** The Board shall consider the potential impact of projected traffic resulting from the proposed development in relation to the condition, capacity, safety, and function of roads and associated infrastructure (e.g., bridges, culverts) potentially affected the proposed development.
    - a. A traffic impact study may be required, particularly for uses which propose direct access onto Route 100 or Route 17, or which generate in excess of 100 trips per

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day. A traffic impact study shall include the following, unless specifically waived by the Development Review Board:

- i. the identification of all roads and intersections potentially affected by the project;
- ii. a statement of existing and projected traffic conditions for a minimum of a 5 year period;
- iii. a comparison of operating levels of service for affected roads and intersections with and without the proposed project, as of its opening date, and projected for a five year period; and
- iv. identification of any adverse traffic, road or intersection impacts, and a description of the improvements needed to provide an acceptable level of service.

b. Conditions may be imposed as appropriate to ensure that the condition, capacity, safety and function of roads and associated infrastructure are adequately maintained over the long-term. For uses that will cause the level of service to go below “C” for the identified design hour, or will contribute to an existing level of service “D” or “F”, the Development Review Board may require off-site road or intersection modifications as appropriate for the area or district (e.g., the installation of frontage roads, turning lanes, or signals as warranted) as a condition of approval.

4. **Bylaws in effect.** The Board shall consider whether the proposed development complies with all bylaws in effect at the time of application, including other applicable provisions of this bylaw, other municipal permit and/or approval conditions (e.g., subdivision, highway access) and is consistent with applicable goals, policies and objectives of the *Waitsfield Town Plan*. Conditions may be imposed or incorporated as appropriate to ensure compliance with other municipal bylaws and ordinances in effect.

5. **The utilization of renewable energy resources.** The Board shall consider whether the proposed development will interfere with the sustainable use of renewable energy resources, including access to, direct use or future availability of such resources. Conditions may be imposed as appropriate to ensure long-term access, use and availability of such resources.

D. **Specific Standards.** In addition to the General Standards set forth above, the Development Review Board shall consider whether the following standards are applicable to the application due to site conditions and/or the scale and intensity of the proposed use. Where one or more of the following standards are determined to be applicable, the Board may impose specific conditions or require project modifications to ensure the following:

1. **Protection of Natural Resources.** The land to be developed will be able to support the intended use without undue adverse impacts to significant natural features (e.g. wetlands, wildlife habitat, steep slopes, groundwater, headwater streams), as determined from the *Waitsfield Town Plan*, and/or through site analysis. An environmental assessment may be required to determine potential adverse impacts and associated mitigation measures. Conditions may be imposed as appropriate with regard to minimum lot size, the density and siting of development on the parcel, and on-site or off-site mitigation measures to avoid or minimize any adverse impacts to significant natural features. In the Irasville Village District, projects may be approved subject to area-wide mitigation programs

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encompassing multiple parcels which have been prepared to address one or more natural feature located on the site.

2. **Design and Location of Structures.** The design and location of structures will be compatible with their proposed setting and context, as determined in relation to zoning district objectives and standards under Article II. A design or visual impact analysis may be required to identify potential adverse impacts and appropriate mitigation measures. Specific standards shall apply to the following districts:
- a. In the **Village Residential and Village Business Districts**, development shall reinforce a traditional, compact village development pattern characterized by pedestrian scale and orientation, traditional densities and setbacks, a well defined streetscape, sidewalks to facilitate pedestrian circulation, and a well-defined edge to the built environment. While building design is not required to reflect any one architectural style or era, the following standards apply to new and expanded structures subject to conditional use approval:
    - i. Building design shall be compatible with historic buildings identified as those structures listed on the *Vermont Historic Sites and Structures Register* and located within Waitsfield Village.
    - ii. The exterior design of buildings, including the arrangement, orientation, texture and materials, shall be compatible and harmonious with surrounding historic structures. Buildings should be oriented toward, and relate both functionally and visually, to public streets and/or common greens, parks or plazas. The Board may impose a maximum setback to achieve a consistent streetscape.
    - iii. The scale and massing of buildings, including height, width, street frontage, roof type and facade openings, shall be compatible and harmonious with surrounding historic structures. Consideration shall be given to buildings serving special civic, social or cultural functions, including places of worship, that may be designed to serve as prominent focal points within the Village.
    - iv. Conformance with the standards set forth in Table 2.09. Historic Waitsfield Village Overlay District, if applicable.
  - b. In the **Irasville Village District**, development should be designed to establish a defined streetscape, characterized by an interconnected network of streets bounded by a combination of sidewalks, street trees and consistent building setbacks, as opposed to large-scale buildings surrounded by expansive parking areas. Buildings shall be a minimum of two stories and should reflect a diversity of building scale and massing. Excessively large, monolithic buildings should be avoided, or the scale and massing reduced through varied roof lines and interruption to the building elevation (facades) to create attached, but separate, masses.
  - c. In the **Agricultural-Residential and Adaptive Redevelopment Overlay Districts** particular consideration shall be given to locating structures off of open farmland or at the periphery of open farmland, and where possible, taking advantage of existing slopes and vegetation to provide a backdrop and screening for the project.

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- d. Along **Route 100 and other scenic roads**, as identified in Section 3.10, particular consideration shall be given to the compatibility of the proposed development with existing and approved structures and uses, and the scenic characteristics of the road. Buildings shall be blended into, and visually compatible with, the surrounding area by appropriate landscaping and the use of topographic features, or may be required to be screened from view. Parking and loading areas should be located behind buildings or otherwise screened from the road. Conditions may be imposed as appropriate with regard to development siting (building footprints and/or envelopes), density, setbacks, scale, height, bulk, massing, materials, and screening to ensure compatibility with uses and structures adjoining or within the vicinity of the project.
3. **Traffic and Pedestrian Circulation.** A coordinated, safe and efficient system for vehicular and pedestrian circulation shall be provided on and off-site in accordance with all applicable municipal and state standards. A traffic and/or pedestrian circulation study may be required.
    - a. Particular consideration shall be given to the number and location of accesses or curb cuts, visibility at intersections, to traffic flow and control, to pedestrian convenience and safety, and to access in case of emergency.
    - b. For development located along **Route 100 in the Irasville Village, Adaptive Redevelopment Overlay, Limited Business and Industrial Districts**, particular consideration shall be given to limiting access onto Route 100 in accordance with Section 3.2. Within the Industrial District, access to Route 100 from the site is only permitted from town highways.
    - c. Conditions may be imposed as appropriate with regard to intersections, pedestrian paths and crossings, and the number, location and size of accesses, including the reduction, consolidation or elimination of noncomplying curbcuts, the limiting of access to side or secondary roads, and/or provisions for shared access with adjoining parcels or uses on the same parcel, in accordance with Section 3.02.
  4. **Parking, Transit & Service Areas.** Off-street parking and service areas will be provided in accordance with the requirements of Section 3.9. A parking assessment may be required.
    - a. Particular consideration shall be given to the effect of noise, glare, odors, on adjoining properties; the adequacy of proposed landscaping, screening, and stormwater management, and provisions for service areas, refuse and snow removal.
    - b. Off-street parking areas may be required to be landscaped or screened from adjacent uses and scenic roads, including Route 100. For uses located along Route 100 parking should be located behind buildings or otherwise screened from view.
    - c. Multi-family and nonresidential parking and service areas shall prohibited within front yard setback areas, unless otherwise approved by the Development Review Board in relation to existing site limitations.

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- d. Permeable surfaces shall be encouraged for proposed parking areas to limit stormwater runoff.
  - e. Adequate space for maneuvering in and out of parking and loading areas shall be provided and located so as not to interfere with circulation to and within the site.
  - f. Transit facilities (e.g., bus shelters) shall be provided as appropriate for development to be served by existing or proposed transit routes.
  - g. Conditions may be imposed as appropriate with regard to the extent, siting, landscaping, screening, paving, curbing and/or the sharing of parking and service areas between adjoining parcels or for uses on the same parcel.
5. **Stormwater Management.** Stormwater runoff shall not result in adverse impacts to neighboring properties, town roads, or water quality in nearby surface waters. A stormwater management and/or erosion control plan, prepared by a licenced engineer, may be required as appropriate and incorporated as a condition to approval. Such plan shall be prepared in accordance with Best Management Practices (BMPs) for managing stormwater and controlling erosion, as defined by the Vermont Agency of Natural Resources.
6. **Lighting.** Lighting associated with proposed development will be the minimum required for safety and security, will avoid glare and sky glow, and will not result in an undue adverse affect on neighboring properties and uses or the quality of the night sky. A lighting plan may be required.
- a. Exterior incandescent lighting shall be limited to cut-off fixtures designed and maintained so that the angle of emitted light is not greater than 75° from the vertical.
  - b. Halide or arc-type fixtures shall be used for down lighting only and shall be screened so that no direct light is visible from adjacent properties.
  - c. Conditions may be imposed as appropriate with regard to the type, height, layout and mounting of exterior lighting fixtures.
7. **Landscaping & Screening.** Proposed landscaping and screening shall achieve maximum project compatibility and protection to adjacent properties. A landscaping plan may be required.
- a. Landscaping, which shall include shade and street trees, shrubs, planting beds, buffers, and ground covers), is required to be installed and maintained in front and side yards, and may be required in rear yards where rear yards abut residential properties or public rights-of-way. Landscaping plans for properties fronting upon Route 100 in the Village Residential, Village Business or Irasville Village District shall be compatible with the *Waitsfield Village/Irasville Street Tree Master Plan*.
  - b. Particular consideration shall be given to the preservation of existing vegetation and important features of the site (e.g., large trees, scenic views, fences, walls, and shrubs), the visibility of unsightly or incompatible areas from the road and



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adjoining properties, and the adequacy of landscaping materials to meet seasonal, soil, and light conditions.

- c. Screening, which may consist of vegetative material, wood, brick or stone, may be required to reduce glare and achieve compatibility with the project setting or adjoining properties, and shall be of sufficient height and density so as to effectively screen an area within 2 years of construction. Vegetative screening should consist of a diversity of plant materials to create a naturalized appearance.
- d. Specific conditions may be imposed as appropriate with regard to the amount, type, size, and location of landscaping and screening materials. A minimum of 3% of the total project cost may be required to be expended on landscaping, and/or a 3-year bond or other surety to ensure installation and maintenance also may be required as appropriate and incorporated as a condition of approval.

8. **Water & Wastewater Systems.** All applicable municipal and state regulations pertaining to water and wastewater disposal systems shall be met.

- a. Site testing (e.g., soil tests, borings) and system designs prepared by a qualified professional (i.e., a professional engineer or certified site technician) may be required.
- b. Conditions may be imposed as appropriate with regard to system siting, performance and maintenance. Professional certification of system installation also may be required as a condition of approval.

9. **Performance Standards.** The following standards shall apply to all new development, including the alteration, conversion, expansion or relocation of existing uses, structures and/or associated operations on a parcel. Pre-existing uses and operations in lawful existence as of the effective date of these regulations which exceed these standards shall be considered exempt until such time as they are discontinued or altered. The Board may require an assessment under one or more of the following performance standards of the potential impact to properties and uses within the vicinity of the project to ensure that the proposed use will operate in conformance with the following standards.

- a. **Fire & Explosion.** All activities involving the use and/or storage of flammable and explosive materials shall be equipped with adequate safety devices against the hazard of fire and explosion, and adequate fire fighting and fire suppression equipment and devices which are standard for such industry or activity. Burning of waste materials in open fires is prohibited. Relevant provisions of state and federal law also shall apply.
- b. **Vibration.** No vibration shall be produced through the ground which could have an undue adverse impact on adjacent landowners.
- c. **Noise.** No noise which is excessive at the property line or any point beyond the property line and represents a significant increase in noise levels in the vicinity of the development so as to be incompatible with the reasonable use of the surrounding area shall be permitted. The maximum sound pressure (decibel) level generated by any use, operation, or facility shall not exceed the values prescribed in Table 5.01 for a noise emitted from a facility or operation within the district, as measured from the lot line. If the noise is not smooth and

continuous, and/or is not emitted between the hours of 7 p.m. and 7 a.m., one or more of the corrections in Table 5.02 shall be applied to the decibel levels given in Table 5.01. Specifically exempted from these noise standards are:

Frequency Band (Cycles per second)	Decibel Level
32	67
63	65
125	60
250	53
500	48
1,000	42
2,000	36
4,000	31
8,000	25

Noise is of an impulsive nature (e.g., hammering)	-5
Noise is of a periodic or pure tone in nature (e.g., hum, screech)	-5
Noise source operates between 7:00 P.M. and 7:00 A.M.	-10

- transportation vehicles not used in the ordinary operation of a use or business or not under the control of the property owner, tenant or lessor;
- occasionally used safety signals, warning devices, and emergency relief valves; and
- temporary construction and property and lawn maintenance activities between 7:00 a.m. and 7:00 p.m.

- d. **Odor.** No noticeable odors shall be discharged which are offensive and uncharacteristic of the area, or which will result in an undue adverse impact on the use of any public or private property or facility.
- e. **Emissions & Air Pollution.** No emissions shall be permitted which can cause any damage to health, animals, vegetation, or other forms of property, or which can cause any excessive soiling at any point on or beyond the property. All uses and development shall operate in compliance with the *Vermont Air Pollution Control Regulations*, as amended. The Board may require documentation to this effect prior to granting conditional use approval.
- f. **Heat.** For the purposes of these regulations, heat is defined as any thermal energy of a radioactive, conductive or convective nature. Heat emitted at any or all points shall not at any time cause temperature increase perceptible to humans on any adjacent property whether such change be in air, ground or water temperature, or in the temperature of any structure adjoining the property.
- g. **Direct Glare.** Direct glare is defined for purposes of these regulations as illumination beyond property boundaries caused by direct or arc lighting, or other source of light. No such direct glare shall be permitted with the exception that parking areas and walkways may be illuminated by luminaries with cutoff, hooded or otherwise shielded fixtures such that the maximum angle of the cone of direct illumination shall be 80 degrees, or for fixtures less than 4 feet in height, 90 degrees, as drawn perpendicular to the ground. Such luminaries shall be

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placed no more than 16 feet above ground level and the maximum illumination at ground level shall not exceed 3 foot-candles. In reviewing proposed uses the Development Review Board may require a lighting plan.

h. **Indirect Glare.** Indirect glare for the purposes of these regulations is defined as illumination beyond property lines caused by diffuse reflection from a surface such as water, a wall, a window or the roof or a structure. Indirect glare shall not exceed that value which is produced by an illumination of the reflecting surface not to exceed a maximum of 0.3 foot-candles, and an average of 0.1 foot candles. Deliberately induced sky-reflected glare (e.g., casting a beam upward for advertising purposes) is specifically prohibited.

i. **Liquid & Solid Wastes.** No discharge of liquid or solid wastes or other materials of such nature or temperature as can contaminate surface or groundwater, or otherwise cause the release of dangerous or offensive elements, shall be permitted at any point into any sewage disposal system, watercourse or lake, or into the ground, except in accordance with all applicable municipal, state and federal regulations.

10. **Utilities.** Electrical, telephone and other lines or cables shall be sited to avoid or minimize environmental and visual impacts. In the siting of utility transmission and distribution lines, particular consideration shall be given to the sharing of corridors and rights-of-way, and/or the burial of utility service lines where feasible to minimize associated environmental and visual impacts. In addition:

a. In the **Agricultural-Residential** and **Adaptive Redevelopment Overlay Districts** utility lines, to the extent feasible, shall be sited to follow existing linear features (e.g., tree lines, access roads) and to avoid the physical and visual fragmentation of agricultural land and open space.

b. Along **Route 100 and other scenic roads** designated in Section 3.10, utility lines shall be screened from the road; the Development Review Board may require that lines be buried.

c. Conditions may be imposed as appropriate with regard to the location of utility corridors and lines to avoid or minimize an adverse environmental or visual impact.

E. **Flood Hazard Area Development Standards.** The Flood Hazard Area Overlay (FHO) District (Table 2.10) includes all Special Flood Hazard Areas (SFHAs) identified on the most current Flood Insurance Rate Maps (FIRMs) and accompanying Flood Insurance Study (FIS) for the Town of Waitsfield published by the National Flood Insurance Program (NFIP), as provided by the state (under 10 V.S.A. §752).

1. **Definitions.** For purposes of municipal flood hazard area management and regulation, federal program terms and definitions under Section 7.03 shall apply to the review of development within the Flood Hazard Area Overlay District. Where these terms differ from general terms and definitions used in these regulations, federal program definitions shall apply.

2. **Review Standards.** Conditional use review is required for all development and activities listed as conditional uses within this overlay district (Table 2.10). Development within

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this district which is identified as a permitted use in the underlying district in which it is located shall be reviewed only under the standards of this subsection. For conditional uses in the underlying district, in addition to applicable general and specific conditional use standards under 5.03(C) and (D), applicable flood hazard area standards under this subsection also shall apply.

3. **Prohibited Development.** The following development is specifically prohibited within the Flood Hazard Area Overlay District (mapped SFHAs):
  - a. New principal residential and nonresidential structures, including new manufactured (mobile) homes except as allowed in the Village Business and Village Residential Districts;
  - b. Salvage yards and storage areas or facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials.
  - c. Fill, except as necessary to elevate structures above the base flood elevation.
  - d. Critical public facilities, which are also prohibited within mapped 500-year flood hazard areas.
  - e. Fully enclosed areas below grade on all sides, including crawlspaces and basements (see E.14).
  - f. All other development not exempted or allowed under Table 2.10.
4. In Zones A, AE, AH, and A1-A30 where base flood elevations and/or floodway limits have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation 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, as certified by a registered professional engineer.
5. **Floodways.** Within floodway areas:
  - a. New structures are prohibited.
  - b. Development and encroachments, including fill, are prohibited unless a registered professional engineer certifies, based on hydrologic and hydraulic analyses conducted in accordance with standard engineering practices, that the proposed development will (i) not result in any increase (0.00 feet) in flood levels during the occurrence of the base flood, and (ii) will not increase the risk to surrounding properties, facilities or structures from flooding or erosion.
  - c. Public utilities may be placed underground, and the analyses may be waived, if a registered professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.
6. **General Considerations.** In reviewing applications for development within the Flood Hazard Area Overlay District, the Development Review Board shall consider the following:
  - a. the danger to life and property due to increased flood heights or velocities caused by encroachments;
  - b. the danger that materials may be swept onto other lands downstream or to the injury of others;
  - c. the ability of proposed water supply and sanitization systems to prevent disease, contamination and unsanitary conditions under conditions of flooding;

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- d. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on individual owners or residents;
  - e. the importance of the services provided by the proposed facility to the community;
  - f. the necessity to the facility of a waterfront location;
  - g. the availability of alternative locations not subject to flooding for the proposed use;
  - h. the safety of vehicular and emergency access to the property in times of flood;
  - i. the expected heights, velocity, duration, rate of rise, and sediment transport of flood waters expected at the site;
  - j. the costs of providing governmental and public facilities and services during and after a flood event;
  - k. other such factors as are relevant to the purpose of these regulations.
7. All development within Special Flood Hazard Areas shall be:
    - a. reasonably safe from flooding,
    - b. adequately drained to reduce exposure to flood hazards, and shall be
    - c. located to minimize conflict with changes in stream channel locations over time and the need to intervene with such changes.
  8. Structures within Special Flood Hazard Areas shall be:
    - a. designed, operated, maintained, or modified and adequately anchored to prevent flotation, collapse, release or lateral movement of the structure during the occurrence of the base flood,
    - b. constructed with materials resistant to flood damage,
    - c. constructed by methods and practices that minimize flood damage,
    - d. 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, and
    - e. accessible by dry land during a base flood occurrence.
  9. The flood carrying and sediment transport capacity within any altered or relocated portion of a watercourse shall be maintained.
  10. A stream alteration permit from the Agency of Natural Resources shall be required, where applicable, for the installation of bridges and culverts over or within stream channels. Documentation that necessary state permits have been obtained shall be required prior to the issuance of municipal certificates of occupancy or compliance.
  11. All mobile home parks, subdivisions and planned unit developments must meet the requirements of this overlay district and the following:
    - a. Subdivisions shall be designed to avoid siting structures, driveways and roads within special flood hazard areas, and to minimize potential flood damage within these areas.
    - b. All utilities and facilities such as sewer, gas, electrical, and water systems serving the subdivision shall be located and constructed to minimize or eliminate flooding.
    - c. Adequate drainage shall be provided to reduce exposure to flood hazards.
    - d. The subdivision must be accessible by dry land during base flood occurrences.

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12. New and replacement water supply and sanitary sewage systems as approved by the state, must meet the following requirements:
- a. Water supply systems shall be designed to minimize or eliminate the infiltration of flood waters into the systems.
  - b. Sanitary sewer systems shall be designed and constructed to minimize or eliminate the infiltration of flood waters into the systems and discharges from the systems into flood waters.
  - c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Documentation that all water supply and wastewater permits have been received shall be required prior to the issuance of municipal certificates of occupancy or compliance.

13. Fuel storage tanks to serve allowed uses must either:
- a. be elevated at least one foot above the base flood elevation, and securely anchored to prevent flotation, or
  - b. placed underground and securely anchored as certified by a qualified professional.
14. The lowest floor, including basement, of all new structures shall be elevated [at least one foot] above the base flood elevation, to be documented in as-built condition through the submission of a FEMA Elevation Certificate.
15. Substantial improvements to existing structures for residential purposes, including expanded or replacement manufactured (mobile) homes, and accessory dwellings shall be elevated such that the lowest floor (including the basement) is [at least one foot] above the base flood elevation, to be documented in as-built condition through submission of a FEMA Elevation Certificate.
- a. For the replacement of a manufactured (mobile) home in a pre-existing mobile home park (created before the FIRM) where elevating the replacement home to or above base flood elevation is not possible, the lowest floor shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 48 inches in height above grade and be securely anchored to resist flotation, collapse, and lateral movement.
  - b. Manufactured homes shall be adequately anchored to resist collapse, flotation and lateral movement in accordance with federal requirements (44 CFR.60.3).
16. Substantial improvements of existing buildings for nonresidential purposes shall either:
- a. meet the requirements of Subsection E.15, or
  - b. 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 a building proposed to be floodproofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications, and plans, and has

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certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

17. Fully enclosed areas below grade on all sides, including below grade crawl spaces and basements, are prohibited. Fully enclosed areas that are above grade, below the lowest floor, and below the base flood elevation (subject to flooding) shall:
  - a. be used only for parking vehicles, storage, or building access, as specified written permit conditions; and
  - b. be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other cover coverings or devices provided that they permit the automatic entry and exit of floodwaters.
  
18. Recreational Vehicles placed on sites within Zones A1-A30, AH and AE shall either:
  - a. be fully licensed and ready for highway use, or
  - b. meet elevation and anchoring requirements for manufactured (mobile) homes under E.16 and 44 CFR 60.3(c)(6).
  
19. A small accessory structure that has a total footprint of 500 square feet or less and represents a minimal investment need not be elevated to the base flood elevation, provided the structure:
  - a. shall be used only for parking or the storage of non-hazardous materials, as specified in the permit and conditions of approval;
  - b. shall be designed to have low flood damage potential;
  - c. shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
  - d. shall be firmly anchored to prevent flotation which may result in damage to other structures;
  - e. shall have a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. 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; and
  - f. shall have service facilities such as electrical and heating equipment elevated or flood proofed to at least one foot above the base flood elevation.

**F. Fluvial Erosion Hazard Overlay (FEHO) Development Standards.** For development within the Fluvial Erosion Hazard Area Overlay District which is identified as a permitted use in the underlying district in which it is located, only the following standards shall apply under conditional use review. For conditional uses in the underlying district, in addition to applicable general and specific standards in 5.03(C) and (D), the following standards also shall apply:

1. No development shall be allowed within required surface water and wetland setback and buffer areas under Section 3.12, except as specified under that section.

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2. No increase in existing structural encroachments shall be allowed within this district, in accordance with Table 2.11(D)(1).
  3. The total combined, cumulative footprint of all structural additions or improvements within the FEHO constructed on a property after May 17, 2010 shall not exceed 500 square feet or 50% of the existing footprint of the principal structure, whichever is greater.
  4. The total combined, cumulative footprint of all accessory structures to existing structures within the FEHO constructed on a property after May 17, 2010 shall not exceed 500 square feet or 50% of the existing footprint of the principal structure, whichever is greater.
  5. An accessory structure in this overlay district shall be located no more than 50 feet from the principal structure, unless it can be located farther away from the stream than the principal structure, as measured horizontally from the top of the stream bank (or slope) to the point of the structure nearest the stream.
  6. Fill is allowed within this district only as provided under Table 2.11(C) to elevate existing structures within the Flood Hazard Overlay District above the base flood elevation, or as incidental to other allowed uses and activities under Table 2.11(C).
  7. New stream crossings by driveways, transportation or utility corridors shall be allowed only if it is determined by the Development Review Board that there are no other viable routes, access points or crossing locations outside of the FEHO, and the crossing is necessary for routing, public or emergency vehicle access. Stream crossings shall be designed by a professional engineer, in accordance with state guidelines, to minimize flood and fluvial erosion hazards both up- and downstream from the proposed crossing area.
  8. Bridges and culverts in this district shall be sited, sized and designed in accordance with state capacity guidelines to minimize fluvial erosion hazards, and shall be regularly inspected and maintained. Regular monitoring reports to the town may be required as a condition of approval.
  9. All utility lines in this district shall be buried.
  10. Recreational vehicles may be stored in this district only if they are fully licensed and ready for highway use.
  11. The Development Review Board, in consultation with the River Management Program, must also find that conditional uses within this district shall not:
    - a. Have an undue adverse effect on community services and facilities, including roads, bridges, culverts and emergency services, during and after fluvial erosion events.
    - b. Increase the susceptibility of property or other properties to fluvial erosion damage.
    - c. Increase the potential for materials to be swept into the stream channel or onto other land and cause damage.



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## Section 5.04 Planned Residential & Planned Unit Development (PRD/PUD) Review

- A. **Purpose.** In accordance with the Act [§4417], the following two categories of Planned Unit Developments are established under these regulations: Planned Residential Developments (PRDs) and Planned Unit Developments (PUDs). Both PRDs and PUDs allow for the modification of district standards subject to Development Review Board review, are required for major subdivisions in designated zoning districts, and are encouraged for other subdivisions in all districts as allowed. The purpose of PRD/PUD review is to:
1. encourage new communities, innovation in design and layout and more efficient use of land;
  2. facilitate the adequate and economic provision of streets and utilities;
  3. preserve the natural and scenic qualities of open land;
  4. provide for open common land for open space and recreation;
  5. maintain the town's agricultural resources and wildlife habitat; and
  6. provide for the development of existing lots which, because of physical, topographical, or geological conditions, could not otherwise be developed; and/or to
  7. provide for affordable housing.
- B. **Coordination with Subdivision Review.** A PRD or PUD shall be reviewed by the Development Review Board as a subdivision under the Waitsfield Subdivision Regulations:
1. PRD/PUD review shall occur concurrently with subdivision review, the procedures for which are set forth in the subdivision regulations.
  2. An application for PRD approval shall include the materials described under Section 5.02.
  3. PRD/PUD approval shall be granted in association with subdivision plat approval. Modifications of this zoning bylaw approved by the Development Review Board shall be noted in writing and appended to the plat.
  4. All other provisions of these regulations not specifically modified shall remain in effect and be applicable to the project. Approval granted by the Development Review Board under this Section for a PRD/PUD involving the development of one or more uses subject to conditional use review shall not exempt the proposed development from subsequent review in accordance with Section 5.03. The Development Review Board may at its discretion review the application under this section concurrently with conditional use review under section 5.03.
- C. **General Standards (for PRDs & PUDs).** The modification of zoning bylaw requirements by the Planning Commission may be allowed simultaneously with the approval of a subdivision plat, in accordance with the following standards:

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1. The minimum project area shall be the minimum lot size for the district within which it is located. The development site shall be a contiguous parcel of land. Separation by a public road does not result in a noncontiguous parcel.
  2. The PRD/PUD shall be consistent with the Waitsfield Town Plan, meet all applicable standards set forth in the current Waitsfield Subdivision Regulations, and be consistent with all other applicable municipal regulations and ordinances currently in effect. The PRD/PUD shall also meet all local and state regulations for sewage disposal and the protection of water quality.
  3. The PRD/PUD shall represent an effective and unified treatment of the development possibilities of the project site, including provisions as appropriate for the preservation or protection of surface and ground waters; wetland, stream bank, flood hazard and fluvial erosion hazard areas; significant topographic features including prominent hilltops and ridgelines and areas of steep slope; soils unsuitable for development; open space and scenic views; significant resource lands including agricultural and forest land; and unique natural or manmade features, including critical wildlife habitat and lands and buildings of historical significance.
  4. Unless otherwise provided, uses shall be limited to those permitted and conditional uses allowed within the district in which the PRD/PUD is proposed.
  5. Maximum overall density shall be determined based on maximum density requirements for the district within which the property is located, except for allowed density bonuses which are subject to Development Review Board approval. Land with a slope of 25% or more, and the area occupied within public or private road rights-of-way shall not be included in the calculation of density. The Development Review Board may otherwise reduce the allowed overall density if steepness of slope, ledges, low or wet areas, or other physical features limit the site's ability to support development.
  6. The total allowable number of dwelling units within a PRD or PUD shall equal the number which could be permitted, in the Development Review Board's judgment, if the land were subdivided into lots in conformance with these regulations. In accordance with the Act, however, the total number of allowed units may be increased, subject to Development Review Board approval, by up to:
    - a. 25% for PRDs, as an incentive for clustered rather than dispersed development which protects open space, agricultural land or other critical resource lands, as identified in the Waitsfield Town Plan, and/or through site analysis; or
    - b. 50% for PRDs or PUDs as an incentive for affordable housing development in which at least 50% of the units are affordable housing units as defined under Article VII.

In granting density increases, the Development Review Board shall give due consideration to site conditions that may limit development, the capacities of community services and facilities, and the character of the area affected.

7. The Development Review Board may allow for a greater concentration or intensity of development within some section(s) of the development than in others, on individual lots which are smaller than the minimum lot size for the district within which the PRD is

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located, provided that there is an offset by a lesser concentration in other sections, including an appropriate reservation of open space on the remaining land.

8. District regulations for height and spacing between structures for all uses shall be met unless specifically modified by the Development Review Board.
9. Uses shall be sited and arranged for compatibility with their setting and context, and to ensure visual and auditory privacy for residents of the project. To ensure adequate privacy for existing or proposed uses within or adjacent to the project, increased building setbacks and/or perimeter screening may be required.
10. Water supply and sewage disposal facilities shall meet all applicable municipal and state regulations.
11. If a PRD/PUD results in common facilities, infrastructure and/or lands intended for parks, recreation, open space, or other community purposes, the Development Review Board, as a condition of approval, may establish conditions on the ownership, use and maintenance of such facilities and lands as it deems necessary to assure their continued availability and long-term management, in accordance with Waitsfield Subdivision Regulations. This may include a requirement that common facilities or land which are not dedicated to or accepted by the municipality be maintained by a homeowners association or similar organization whose rules and regulations are approved by the Planning Commission.
12. In the Agricultural-Residential, Commercial-Lodging and Forest Reserve Districts, a minimum of 60% of the total project site shall be set aside as open space. Where a PRD/PUD involves land currently in agricultural or forestry use, or has the potential for agricultural or forestry use due to the presence of primary agricultural or forestry soils, the development should make provisions for the use of such land for agricultural or forestry purposes.

**D. Standards Specific to PRDs.**

1. A PRD shall include only residential uses and associated accessory structures and uses allowed within the district in which the PRD is located. The dwelling units permitted may, at the discretion of the Development Review Board, be of varied types, including single-family, two-family, or multi-family construction, and may be attached or detached. Associated uses may include, but not be limited to home occupations, child care and recreational facilities.
2. No multi-family dwelling unit greater than 7500 square feet shall be permitted except in the Adaptive Redevelopment Overlay District, or as allowed for the adaptive reuse of historic barns in the Agricultural-Residential District. Attached or multi-family dwellings meeting this standard may be developed with PRD approval.
3. The minimum front, side and rear yard setbacks at the periphery of the PRD shall be as dictated for the particular district unless otherwise specified by the Development Review Board. The Development Review Board may consider within the project area other setback standards, such as zero lot lines, as part of subdivision review.
4. In addition to standards under subdivision review, the Development Review Board may impose further restrictions on the height and spacing of buildings; and greater setback

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and screening requirements for structures, parking areas and other development along the perimeter of the project, and between built and open space areas.

5. Provision shall be made for the preservation of open space. The location, size, shape, ownership, use and long-term management of land set aside to be preserved for open space shall be approved by the Development Review Board in accordance with the Waitsfield Subdivision Regulations.
6. Where a district boundary line divides a parcel, the Development Review Board may allow the development of a single PRD with a total density based on the combined allowable density of each district.
7. Two (2) or more contiguous parcels under the ownership or control of the applicant may be combined for review as a PRD. The permitted density on one parcel may be increased as long as the overall density for the combined parcels does not exceed that which could be permitted, in the Planning Commission's judgment, if the land were subdivided into lots in conformance with district regulations.

**E. Standards Specific to PUDs.**

1. PUDs located within the Irasville Village District shall be designed to establish well defined streetscapes, characterized by an interconnected network of streets bounded by a combination of sidewalks, street trees and consistent building setbacks, as opposed to large-scale buildings surrounded by expansive parking areas.
2. Provision shall be made for year-round pedestrian circulation within the site, and for pedestrian access to adjacent properties. Pedestrian circulation should include a network of pathways and sidewalks connecting existing land uses in and adjacent to the site.
3. Buildings shall front towards and relate to streets, entrance drives and public spaces (e.g. greens, parks, plazas), both functionally and visually, and not be oriented toward parking lots. Buildings shall reflect a diversity of building scale and massing. Excessively large, monolithic buildings shall be avoided, or the scale and massing reduced through varied roof lines and interruption to the building elevation (facades) to create attached, but separate, masses.