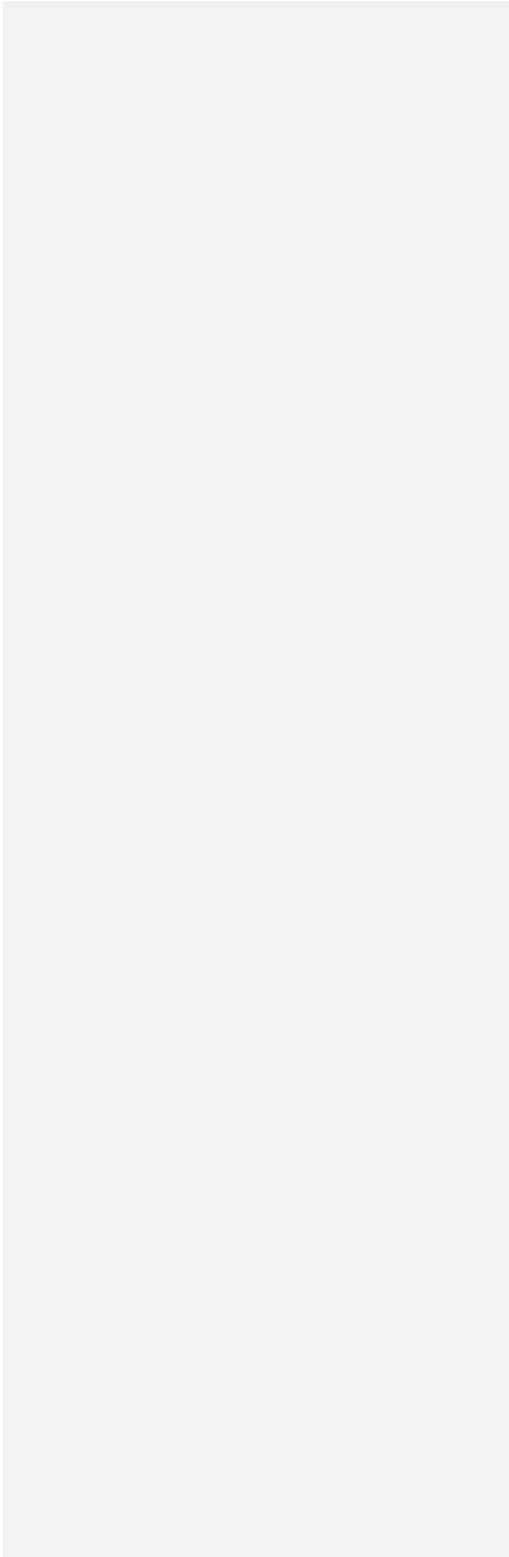


DRAFT SUBDIVISION BYLAWS

Town of Cavendish, Vermont

Revised Draft December 28, 2023



Contents

ARTICLE I: AUTHORITY AND PURPOSE	3
Section 110. Enactment & Authority	3
Section 120. Purpose.....	3
Section 130. Amendments	4
Section 140. Conformance with Other Regulations	4
Section 150. Severability	4
ARTICLE II: SUBDIVISION APPLICATION PROCEDURES.....	5
Section 210. Applicability	5
Section 220. Application Requirements	5
Section 230. Final Subdivision and Plat Review	6
Section 240. Revisions to an Approved Plat.....	7
Section 250. Monuments and Lot Corner Markers.....	8
ARTICLE III: SUBDIVISION STANDARDS.....	9
Section 310. General Standards	9
Section 320. Protection of Natural and Cultural Resources	10
Section 340. Community Services and Facilities.....	11
Section 350. Utilities, Water Supply & Wastewater Disposal.....	12
Section 360. Stormwater Management and Erosion Control	13
Section 370 Roads, Access and Pedestrian Facilities	14
Section 380. Dedication of Open Space and Common Land.....	17
Section 390. Disclosure of Subsequent Development Plans	17
ARTICLE IV: ADMINISTRATION AND ENFORCEMENT	19
Section 410. Administration.....	19
Section 420. Fees, Independent Technical Review and Performance Bonds.....	19
Section 430 Hearing Notice Requirements	20
Section 440 Enforcement and Penalties	22
Section 450 Appeals.....	22
Section 460 Recording Requirements	24
Section 470 Waivers.....	24
ARTICLE V: DEFINITIONS	25
APPENDIX A - RESOURCES.....	29

ARTICLE I: AUTHORITY AND PURPOSE

Section 110. Enactment & Authority

110.1 Whereas the Town of Cavendish, has created a Planning Commission and has adopted and has in effect a plan under the Vermont Municipal and Regional Planning and Development Act [24 V.S.A. Chapter 117] herein referred to as the Act, there is hereby established Subdivision Bylaws for the Town of Cavendish pursuant to §4401, 4402, 4410 and 4418 of the Act. These Bylaws shall be known as the "Town of Cavendish Subdivision Bylaws."

110.2 It is the policy of the Town of Cavendish to regulate all subdivisions of land and subsequent development of subdivided lands in accordance with these Bylaws. No subdivision of land shall be made and no land in any proposed subdivision sold, transferred, leased or developed until a final plat prepared in accordance with these Bylaws has been approved by the Planning Commission and filed in the Cavendish Land Records.

Section 120. Purpose

The purpose of these Bylaws is to further the following objectives:

- (1) To guide future development in accordance with the *Cavendish Town Plan* and all other municipal regulations enacted to implement the Plan;
- (2) To provide for the orderly growth and coordinated development in the Town of Cavendish;
- (3) To ensure that land to be subdivided is suitable and can be used safely for its intended purposes;
- (4) To protect and provide for the public health, safety and general welfare of the Town of Cavendish;
- (5) To guide development in a manner that maintains the traditional settlement pattern of compact villages surrounded by an open, rural landscape;
- (6) To preserve or protect rare and fragile areas, historic sites, scenic areas, open spaces, forests, farm land, wildlife habitat, significant wetlands and surface waters through the proper configuration of parcels boundaries and arrangement and location of development on parcels;
- (7) To secure safety from fire, flood and other danger, and to prevent overcrowding of the land and undue congestion of population;
- (8) To ensure the provision of adequate and efficient transportation, water, sewage disposal, schools, parks, playgrounds, recreation and other public requirements and facilities;
- (9) To promote the conservation of energy or to permit the utilization of renewable energy resources;
- (10) To keep the Cavendish Land Records up to date;
- (11) To ensure that the rate of growth does not exceed the ability of the Town to provide public services and facilities, and that public facilities and services are available and will have sufficient capacity to serve any proposed subdivision;
- (12) To provide the most efficient relationship between land use and the circulation of pedestrians and vehicular traffic, and to avoid undue traffic congestion and

overburdening of highways, streets and bridges; and,

(13) To further the purposes contained in the Act as set forth in §4302.

Section 130. Amendments

130.1 In accordance with §4442 of the Act these Bylaws shall take effect immediately after the date of their adoption by regular or special town meeting.

130.2 These Bylaws may be amended according to the requirements and procedures established in §4441 and 4442 of the Act.

130.3 In accordance with §4449(d) of the Act, once notice for a public hearing on the adoption or amendment to these Bylaws is issued by the Selectboard, the Planning Commission shall review any new subdivision application filed after the date of the notice under the proposed Bylaws or amendment and the existing subdivision Bylaws. If the proposed Bylaws or amendment has not been adopted within 150 days of the notice, or if the proposed Bylaws or amendment is rejected, then new plats shall be reviewed under the existing Bylaws. A subdivision plat that has been denied under proposed Bylaws or amendment that has not been adopted within the 150-day period shall be reviewed again, at no cost, under the existing subdivision Bylaws, upon request of the applicant.

Section 140. Conformance with Other Regulations

The adoption of these Bylaws shall not repeal any previously issued subdivision approvals. All land development shall be subject to all other applicable local, state and federal regulations. Where there are inconsistencies between regulations, the more stringent shall apply.

Section 150. Severability

The invalidity of any provision of these Bylaws shall not invalidate any other part.

ARTICLE II: SUBDIVISION APPLICATION PROCEDURES

Section 210. Applicability

210.1 Subdivision Approval Required: Whenever any subdivision of land is proposed, the land owner(s) or an authorized agent shall apply in writing to the Planning Commission for and secure final approval of the proposed subdivision. The final approval shall be in accordance with the procedures set forth in these Bylaws prior to:

- a) Commencing any land clearing, land development or construction (excluding forestry, agriculture or other activities exempted under 24 V.S.A. Section 4413);
- b) Issuing a permit for any land development involving land to be subdivided;
- c) Any conveyance, granting of a right-of-way, sale or lease is made of any subdivided lot; and/or,
- d) The filing of a subdivision plat with the Town Clerk.

210.2 Subdivisions: There are two classifications of subdivision review, both classifications require final subdivision review as described in Sections 220. Site visits may be required for each or all application submissions.

- a) Minor subdivisions involve the division of any parcel into not more than 4 lots in total, and are subject to approval by the Administrative Officer in accordance with **Section XXXX.**
- b) Major subdivisions involve the division of any parcel into 5 or more lots or the creation of a private easement or right-of-way to access a lot without frontage on a public road and a subject to approval by the Planning Commission following a duly-warned public hearing.

210.3 Boundary Adjustments:

- a) The adjustment of a boundary between two adjoining parcels which does not result in the creation of a new lot is exempt and does not require subdivision review.

Section 220. Application Requirements

220.1 Applications must include the following items or be accompanied with a written request to waive one or more of the following requirements:

- (1) Completed application form
- (2) Application and Recording Fees
- (3) Written description of the proposed subdivision plans
- (4) Waiver request, in writing (optional)
- (5) Evidence of written notification to abutters
- (6) Subdivision plat/plan
 - a) One copy of paper plan and one copy of final Mylar plat
 - b) Date, North Arrow, Legend
 - c) Preparer information, Revision dates, Certifications
 - d) Scale (not greater than 1 inch = 200 feet, unless waived for large parcels)
 - e) Property boundaries, Existing and proposed lot lines, Dimensions
 - f) Monument locations
 - g) Adjoining land uses, roads and drainage
 - h) Location of significant natural and cultural features including slopes of 25% or more, critical wildlife habitat, historic sites and features (e.g. stone walls, cellar holes), surface waters, flood hazard areas, river corridors, and other significant geologic

- features and landforms)
 - i) Existing and proposed elevations, Contour lines within 100 feet of any site development
 - j) Existing and proposed driveways, roads, paths, parking areas, and associated rights-of-way and easements
 - k) Existing and proposed utilities, water and wastewater systems, and associated rights-of-way or easements
 - l) Proposed development envelopes
 - m) Road profiles; access, intersection and parking area geometry and construction schematics
 - n) Proposed landscaping and screening
 - o) Proposed no-build areas, no-cut zones and/or conservation easement areas
 - p) Final plat must comply with the requirements of 27 V.S.A., Chapter 17: Filing of Land Plats.
- (7) Supporting information and documentation
- a) Locus map showing site location in relation to major roads, waterways and town boundary
 - b) Engineering reports or state permits (water, wastewater, access to state highway)
 - c) Existing and proposed traffic generation rates
 - d) Off-site easements (e.g. for water, wastewater, access)
 - e) Proposed phasing schedule
 - f) Proposed covenants or deed restrictions
 - g) Proposed homeowners or tenant association or agreements
 - h) Proposed performance bond or surety
- (8) Additional information as required by the Planning Commission for major subdivisions
- a) Stormwater and erosion plan
 - b) Grading plan
 - c) Base flood elevations
 - d) Traffic impact analysis
 - e) Visual impact analysis
 - f) Wildlife habitat impact assessment and mitigation plan
 - g) Fiscal impact analysis
- 220.2 Perimeter Survey:** A full perimeter survey is not required for lots that are 50 acres or larger.

Section 230. Final Subdivision and Plat Review

230.1 Purpose: The purpose of the final subdivision and plat review is to ensure that:

- (1) The proposed subdivision meets the objectives listed in Section 120;
- (2) All necessary municipal certifications have been obtained;
- (3) Infrastructure has been provided for;
- (4) Legal documents are acceptable and complete;
- (5) Conditions have been or will be complied with; and,
- (6) The plat is ready for recording in the Cavendish Land Records.

230.2 Application Requirements: A complete application, in accordance with Section 220, shall be submitted to the Administrative Officer at least twenty-eight (28) days prior to a regular monthly meeting of the Planning Commission. Temporary markers shall be installed prior to submitting a final plan subdivision application. Such temporary markers shall be adequate to enable the Commission to locate readily and appraise the basic layout in the field.

230.3 Public Hearing: In accordance with §4463 and §4464 of the Act and Section 430 of

these Bylaws, the Administrative Officer shall warn a public hearing on a complete application. Copies of the hearing notice shall also be distributed in accordance with §4464 at least fifteen (15) days prior to the hearing date. Copies of complete applications for final subdivision and plat review shall be available for review by local officials (e.g. Road Foreman, emergency service providers) and interested persons prior to the public hearing.

230.4 Phasing: The Planning Commission may require a subdivision to be divided into two or more phases to ensure project conformity with the Town Plan and Capital Budget and Program, at the time of granting preliminary plan approval. Conditions may be imposed upon final subdivision and plat application for each phase as the Planning Commission deems necessary to ensure the orderly development of the project and to avoid overburdening Town facilities and services.

230.5 Final Subdivision and Plat Approval: In accordance with §4464 of the Act, within 45 days after the closing of the hearing, the Planning Commission shall approve, approve with conditions, or disapprove the final subdivision and plat. This determination shall be based on whether or not the subdivision plan and associated plat conform to the planning and design standards under Article 3, and if they conflict with the Town Plan, other municipal regulations in effect or the objectives listed under Section 120. Failure to act within 45 days shall be deemed as approval. Approval, conditions of approval, or grounds for disapproval and the provisions for appeal under Section 450, shall be set forth in a written notice of decision. Copies of the notice of decision shall be sent within the 45-day period to the applicant and any other interested persons in accordance with §4464.

230.6 Effect of Final Subdivision and Plat Approval: Each approval for a final subdivision plan and associated plat shall contain a time limit within which all improvements shall be completed, not to exceed one (1) year unless otherwise required or extended by the Planning Commission. The subdivision approval is not final until the written decision and signed mylar plat are recorded in the Cavendish Land Records in accordance with Section 460. Planning Commission approval of a final subdivision plan and associated plat shall not be construed to constitute acceptance by the Town of any street, easement, utility, park, recreation area, or other open space shown on the final plat. Such acceptance can be accomplished only by formal resolution of the Selectboard in accordance with state statute.

Section 240. Minor Subdivision Review

240.1 Administrative Review. In accordance with 24 V.S.A. §4418(2)(E), applications for minor subdivisions are subject to approval by the administrative officer.

240.2 Site Visits. The Administrative Officer may conduct site visits after receipt of an application.

240.3 Approval Process. The Administrative Officer shall consider the proposed Minor Subdivision application without a hearing, in light of the evidence presented by the Applicant in the application materials and supporting documents and with reference to the goals of the Town Plan and the design standards in Article 3. Within 30 days of the receipt of a complete application for a Minor Subdivision, the Administrative Officer shall act, either by issuing a permit, by issuing a permit with conditions, or by denying a permit. Failure of the Administrative Officer to act within the allotted 30 days shall constitute deemed approval of the application.

240.4 Appeal. The Applicant may appeal the action of the Administrative Officer by sending a notice of appeal to the Planning Commission in accordance with Section 450.1.

Section 250. Revisions to an Approved Plat

- A. No changes, modifications or other revisions that alter the final subdivision plat or conditions of approval shall be made unless the proposed revisions are first resubmitted to the Planning Commission as a final subdivision application and the Planning Commission approves such revisions after a duly-warned public hearing.
- B. No changes, modifications or other revisions that alter the boundary adjustment plat or conditions of approval shall be made unless the proposed revisions are first resubmitted to the Administrative Officer as a boundary adjustment application and the Administrative Officer approves such revisions under Section 210.3.
- C. In the event that such plat revisions are recorded without complying with these requirements, the revisions shall be considered null and void.

Section 260. Monuments and Lot Corner Markers

Permanent monuments and corner markers shall be placed in conformance with the *Rules of the Vermont Board of Land Surveyors, Part 5, Standards for the Practice of Land Surveying*. At a minimum, monuments shall be placed at every lot corner and at street intersections and points of curvature. All permanent monuments shall be installed prior to signing the mylar.

ARTICLE III: SUBDIVISION STANDARDS

Section 310. General Standards

- 310.1 Character of the Land:** All land to be subdivided shall be, in the judgment of the Commission, of such a character that it can be used for the intended purposes and proposed density of use without undue adverse impacts on public health or safety, neighboring properties, rural character and natural resources or to the environment. Land subject to periodic flooding, poor drainage, inadequate capability to support structures, including streets, utilities, and buildings, or other hazardous conditions, shall not ordinarily be subdivided.
- 310.2 Energy Conservation:** In order to conserve energy, all subdivisions are encouraged to use the least areas of roadway and the least length of sewer, water and utility lines within environmentally and economically sound limits.
- Cluster development (planned residential or planned unit development) is encouraged wherever feasible and desirable.
- 310.3 Conformance with *Town Plan* and Other Regulations:** Subdivisions shall conform to the *Town Plan*, Capital Budget and Program and all other local regulations currently in effect. The proposed subdivision may be denied if the intended use(s) cannot be shown to be capable of complying with the provisions of these Bylaws.
- 310.4 Lot Layout:** The lots in a subdivision shall be appropriate in size and configuration to permit the intended construction without need of variances. The following standards shall apply to all subdivisions and boundary adjustments:
- Corner lots shall have extra width to permit a front setback on each street;
 - Side lot lines shall generally be at right angles to straight streets, or radial to curved street lines;
 - A building lot depth shall not exceed four times the average width of the lot. Consideration in lot layout shall be given to topographic and soil conditions. Lots with irregular shapes (e.g. curves, dog-legs, flag lots, etc.) should not be created unless warranted by conditions of topography, locations of natural features or existing road conditions; and,
 - Lots shall meet minimum lot frontage to be consistent with driveway spacing requirements.
- 310.5 Landscaping and Screening:** The Planning Commission may require the planting of trees along any new subdivision roads to establish a canopy effect and/or maintain a pedestrian scale where the Planning Commission deems it appropriate and as called for the *Town Plan*. The Commission may require that suitable hardwood shade trees (such as Sugar Maple, Red Maple, Ash or Oak) be planted along streets where trees do not exist. All trees should measure at least 10 feet in height and at least two inches in diameter measured at a point six inches above finished grade level.

Commented [JR1]: Is this specified in local driveway permits?

310.6 Natural Cover: Land shall be subdivided and developed in reasonable conformity to existing topography to minimize grading, cut and fill, and to retain, insofar as possible, the natural contours, limit storm water runoff and conserve the natural cover and soil. After application for approval has been made to the Commission, no topsoil, sand or gravel shall be removed from the subdivision for any other purpose than to meet construction needs for that particular subdivision or to meet any requirements of these Bylaws.

Section 320. Protection of Natural and Cultural Resources

320.1 In accordance with the *Town Plan*, the Planning Commission may require that applicants provide a detailed site analysis identifying all natural and cultural resources described below, the impact of the proposed subdivision on those resources, and the protection measures proposed to avoid or mitigate those impacts.

320.2 Establishment of Development Envelopes: The Planning Commission may require clustering development and shall require the designation of development envelopes to protect natural and cultural resources, further goals and policies of the *Town Plan*, and to ensure the maintenance and/or extension of district settlement patterns as described in Section 330. Development envelopes shall be configured to limit the location of site improvements on the subdivided lot, including principal and accessory structures, parking areas, and associated site development, excluding road, driveway and utility rights-of-way or easements. Development envelopes shown on plats to protect natural or cultural resources under Section 320 may be defined as open space or common land in accordance with Section 380.

320.3 Protection of Wetlands, Floodplains and Surface Waters: Subdivision boundaries, lot layout and development envelopes shall be located and configured to avoid any undue adverse impact to wetlands, floodplains, ponds, streams and rivers. Methods for avoiding such undue adverse impacts include but are not limited to the following:

a. Development including principal and accessory structures, roads, driveways and utilities shall be located and sized to exclude these resources pursuant to the *Flood Hazard Regulations*, except as provided in this Section.

b. Shoreline, riparian areas and wetlands and adjacent buffer areas may be designated as open space.

320.4 Protection of Steep Slopes and High Elevation Areas: Subdivision boundaries, lot layout and development envelopes shall be located and configured to minimize development on steep slopes greater than 25% and in high elevation areas at 1,500 feet in elevation or above.

320.5 Protection of Wildlife Habitat and Natural Areas: Subdivision boundaries, lot layout and development envelopes shall be located and configured to minimize undue adverse impacts to wildlife habitat and biological natural areas as identified in the *Town Plan*. Methods for avoiding such undue adverse impacts include but are not limited to the following:

a. Subdivisions should avoid fragmenting important wildlife habitat areas, including large tracts of undeveloped land, areas that serve as wildlife travel corridors. The Planning Commission may require the submission of a wildlife habitat assessment, prepared by a wildlife biologist or comparable professional, to identify the function

and relative value of impacted habitat and provide recommended mitigation strategies to maintain or enhance the function of the identified habitat areas. The Planning Commission may also consult with the Vermont Department of Fish and Wildlife prior to issuing a decision.

b. Development envelopes shall be located to exclude identified habitat and areas of rare, threatened and endangered species. The Planning Commission may consult with the Vermont Department of Fish and Wildlife prior to issuing a decision.

c. Roads, driveways and utilities, including culverts and bridges, shall be designed to minimize fragmentation of important wildlife habitat and travel corridor areas.

d. Identified important habitat areas should be designated as open space under Section 380.1.

320.6 Protection of Historic and Cultural Resources: Subdivision boundaries, lot layout and development envelopes shall be located and configured to minimize undue adverse impacts to historic and archaeological sites and resources identified in the *Town Plan*, by the Vermont Division for Historic Preservation or through site investigation. Methods to avoid such undue adverse impacts include but are not limited to the following:

a. Historic features, including stone walls and cellar holes, should be preserved and integrated into the subdivision design and layout (e.g. driveways may follow stone walls) to the extent practicable;

b. For sites that have previously been identified as being archaeologically sensitive, the Planning Commission may require a site assessment to identify the presence and relative value of archaeological resources on the site, and to recommend strategies for protection;

c. The subdivision of land shall be designed to maintain the historic context of the site, and to minimize the impact of new development on the historic and architectural integrity of historic resources.

320.7 Protection of Farm Land: Subdivision boundaries, lot layout and development envelopes shall be located and configured to minimize the fragmentation of prime and statewide agricultural soils in accordance with the *Town Plan*.

320.8 Modifications for Compact Development: The Planning Commission may waive or modify one or more of the above standards within the Villages in the event that the Planning Commission determines that the benefits of modification would result in a more desirable settlement pattern and the impacts on identified resources can be mitigated either on- or off-site.

Section 340. Community Services and Facilities

340.1 The proposed subdivision shall not create an undue burden on municipal facilities or create an unreasonable demand for public services. The Planning Commission may require the phasing of development in order to coordinate the necessary improvements to adequately meet the anticipated demand for municipal services and facilities, in accordance with a duly adopted capital budget and program. In determining whether a subdivision will place an undue burden on facilities or services, the Planning Commission may consult with the appropriate municipal body or staff. The applicant may satisfy this provision by providing information sufficient to satisfy the Planning

Commission or letters from the following entities:

a. Highways: A letter from the highway superintendent certifying that the capacity of local roads, intersections and bridges in the immediate vicinity of the proposed subdivision are sufficient to accommodate additional traffic generated by the proposed subdivision. If new roads or road upgrades are required, the standards for road improvements in Section 370 shall apply. Where upgrades to town-maintained roads will be required, the applicant shall secure and provide the written approval of the Cavendish Selectboard in addition to a letter from the highway superintendent.

b. Emergency Services: A letter from the Sheriff's Department and either the Cavendish or Proctorsville Volunteer Fire Departments confirming that the proposed subdivision is designed to provide sufficient access for emergency response vehicles, that they have the ability to provide adequate service to the proposed facility, and if any additional measures are necessary to ensure the health, welfare and safety of residents of the proposed development.

c. School Services: A letter from an official at the Cavendish School certifying that the proposed subdivision will not unduly impact the school by causing the student population to exceed the capacity of the existing facility.

Commented [JR2]: ?

Section 350. Utilities, Water Supply & Wastewater Disposal

350.1 Utilities: The subdivider shall show that they have thoughtfully designed the utilities - including electricity, telephone, and cable television - serving the subdivision. All existing and proposed utilities in the subdivision shall be shown on the final plat.

- a.** The subdivider shall coordinate subdivision design with the utility companies to:
- Ensure adequate capacity to provide utility service for the proposed subdivision. The subdivider shall demonstrate coordination with utility provider(s) by providing a letter or other evidence from the utility provider(s) indicating their ability to provide service at the proposed levels of service.
 - Identify suitable areas for utility installation for both the proposed subdivision and anticipated development on lands adjacent to the subdivision shall be accounted for on the plat. Proposed utilities shall be shown on the plat.

b. The Planning Commission shall require underground utilities in areas designated as important for scenic views in the Aesthetic Resources section of the *Town Plan*. The Planning Commission may also require underground utilities in other areas where a hardwood tree canopy exists. Where the Commission requires underground utilities, they shall be placed either in the street right-of-way between the roadway and street line or placed horizontally underneath the roadway. Where inclusion of utilities in the street right-of-way is impractical, perpetual, unobstructed easements a minimum of twenty (20) feet in width or as required by the utility provider shall be provided with satisfactory access to the street.

c. Utility corridors shall be shared with other utility and/or transportation corridors, and be located to minimize site disturbance, the fragmentation of designated open space (see Section 380), and any adverse impacts to natural, cultural or scenic resources (see Section 320), and public health.

350.2 Water Supply and Wastewater Disposal

a. Water Supply: All subdivisions with on-site potable water systems are subject to a state permit issued by the Department of Environmental Conservation.

b. On-Site Wastewater Systems: All subdivisions with on-site wastewater systems are subject to a state permit issued by the Department of Environmental Conservation. The Planning Commission urges the applicant to obtain a state on-site wastewater permit before submitting a final subdivision application.

c. Community Systems: Proposed development may be served by community water and/or wastewater systems which shall be designed and installed in accordance with all applicable municipal and state regulations and standards. Where connection to an existing water or wastewater system is proposed, the subdivider shall demonstrate the adequacy of the system to meet the needs of the proposed development.

Section 360. Stormwater Management and Erosion Control

360.1 Temporary and permanent stormwater management and erosion control measures shall be incorporated into subdivision design and layout to control surface runoff and prevent sedimentation and water pollution on-site and downstream from the proposed subdivision.

360.2 The smallest practical area of land should be exposed at any one time during development. Land should not be left exposed during the period between October 15 and April 15. All required site improvements for the subdivision shall take the appropriate measures for erosion prevention and sedimentation control during construction in accordance with the *Vermont Erosion Prevention and Sediment Control Field Guide*, *The Low Risk Site Handbook for Erosion Prevention and Sediment Control*, and/or *Vermont Standards and Specifications for Erosion Prevention and Sediment Control*, as most recently amended. The Planning Commission also may require the phasing of development to reduce the amount of land disturbed at any one time, and may stipulate deadlines for the installation of temporary and permanent erosion control or stabilization measures.

360.3 The Planning Commission may require the preparation and implementation of stormwater management and/or sedimentation and erosion control plans and associated analyses to ensure that site improvements, including excavation, road and driveway construction and site clearing and grading, will not unduly impact neighboring properties or surface waters. Such plans, if required, shall be prepared by a licensed Vermont engineer or a Certified Professional in Erosion and Sediment Control (CPESC), be based upon Best Management Practices (BMPs) for managing stormwater and controlling erosion, as defined by the Vermont Agency of Natural Resources and the U.S. Natural Resources Conservation Service, and shall include provisions for the inspection and long-term maintenance of stormwater management and erosion control facilities. The applicant shall be responsible for showing that their proposed subdivision will not cause erosion or stormwater problems. In approving a stormwater management and/or erosion control plan, the Commission may consult with appropriate local and state officials (e.g., VT ANR, highway superintendent). The Commission may also hire a professional engineer, at the applicant's expense, to review and advise the Commission regarding the above plans.

360.4 In instances in which a stormwater management plan is required, control of stormwater runoff flows from all impervious surfaces shall be accomplished by limiting the post-development peak discharge rate from the subdivision so that it does not exceed the pre-development peak discharge rate from the site for a 2-year, 24 hour event. Additional control of treated stormwater (e.g., for 10- or 25-year or 100-year, 24 hour storm events) may be required if site specific considerations warrant the attenuation of larger storm events.

Section 370 Roads, Access and Pedestrian Facilities

370.1 Applicability of Road Standards:

a. These standards apply to all proposed subdivision roads and driveways. Driveway standards shall apply for all accesses serving up to two lots. Road standards shall apply to any existing or proposed road serving three or more lots.

b. All proposed roads on a subdivision plat shall be deemed to be a private road until such time as it has been formally accepted by the Selectboard pursuant to state law for the laying out of public rights-of-way. All proposed subdivision roads shall be designed, constructed and maintained in accordance with town highway standards in the *Cavendish Town Highway and Bridge Standards*, as most recently amended.

c. Acceptance of private roads by the town is subject to the approval of the Cavendish Selectboard pursuant to state law for the laying out of public rights-of-way. Construction of roads to these standards in no way ensures such acceptance. In the event the Selectboard agrees to accept a road associated with an approved subdivision, the terms of acceptance, including road construction standards, inspection, and maintenance, shall be prescribed in an agreement approved by the Selectboard. Such agreement may be included as a condition of subdivision approval, and such approval may specify the timing of development on subdivided lots to ensure coordination with the terms of the agreement between the Selectboard and subdivider.

370.2 Road Design and Construction Standards: All roads serving proposed subdivisions shall be designed in accordance with applicable municipal road policies adopted and administered by the Selectboard.

Commented [JR3]: Review with Phon, Rick and/or Selectboard

a. All roads must meet the minimum design standards in the *Cavendish Town Highway and Bridge Standards*, as most recently amended.

b. The Planning Commission may modify the roadway width standards where warranted to ensure pedestrian and vehicular safety and/or when the strict application of the standards would adversely impact the scenic character and/or natural resources or features located on the site.

c. Lower design and posted speeds may be considered to avoid and/or minimize impacts to historic, architectural, scenic, natural or other resources; to avoid excess costs of construction; or to better comply with the *Town Plan*.

d. Wider travel lanes and/or shoulders may be required as appropriate to road function (i.e., for on-street parking, emergency vehicle access, snow removal, collector and arterial roads), or to safely accommodate shared use by bicycles.

e. Roads should logically relate to topography to produce useable lots and minimize site disturbance, including the amount of cut and fill required, and shall meet the requirements for town highways with respect to road grades.

f. Roads shall be designed and laid out, to the extent feasible, to:

- 1) Avoid adverse impacts to natural, historic, cultural and scenic resources;
- 2) Be consistent with existing road patterns and/or create an interconnected, grid-like road network in villages and other settlement areas;
- 3) Maximize connectivity within the subdivision and to adjoining parcels and road

and trail networks;

- 4) Follow existing linear features, such as utility corridors, tree lines, hedgerow and fence lines;
- 5) Avoid fragmentation of meadows or fields, large tracts of forested lands and other designated open space.

370.3 Driveways: Driveways serving two or fewer lots shall meet the standards in the *Cavendish Driveway and Highway Access Ordinance*, as most recently amended. In addition, driveways shall meet the following standards:

a. Driveways should be laid out to follow existing linear features, such as utility corridors, tree lines, hedgerows and fence lines; to avoid the fragmentation of fragile features and natural and cultural resources described in Section 370.2.

b. Driveways shall not, in any 50-foot section, exceed an average grade of 15 percent.

c. Driveways shall provide suitable emergency vehicle access to within at least 100 feet of the principal structure.

370.4 Intersections: Intersections of new or relocated subdivision roads and driveways shall meet standards in both the *Cavendish Driveway and Highway Access Ordinance*, specifically including but not limited to all dimensional and sight distance requirements.

370.5 Access Permits: All accesses are required to obtain the appropriate access permits as follows:

a. An access permit from the Vermont Agency of Transportation is required for any new access onto a state highway or work within the state right-of-way.

b. An access permit from the Cavendish Selectboard, or their designee, is required for any new or expanded access onto town highways pursuant to the *Cavendish Driveway and Highway Access Ordinance*. Only those sections of roads and/or driveways within town rights-of-way or other sections draining into the town rights-of-way are subject to this permit.

Commented [JR4]: Is this correct?

370.6 Access Management: In addition to access requirements in the *Cavendish Driveway and Highway Access Ordinance*, measures may be taken through the subdivision approval process to better manage traffic flow and safety, avoid congestion and frequent or conflicting turning movements, preserve the existing highway capacity of state highways and class 2 town highways, and to avoid strip development.

The following access management standards shall apply to all subdivisions:

a. Shared driveways, access or frontage roads, and connections between adjacent lots are encouraged and may be required to limit the number of access points onto public highways;

b. If a subdivision has frontage on primary and secondary roads, access shall be from the secondary road unless the Planning Commission determines that topographic or traffic safety conditions make such an access impracticable.

c. Where extensions of new roads could provide future access to adjoining parcels, a right-of-way shall be provided.

370.7 Traffic & Road Capacity: Traffic generated by the proposed subdivision shall not result in unreasonable traffic congestion or exceed the capacity of roads and intersections in the vicinity of the subdivision. The Planning Commission may request the preparation of a traffic impact study to identify impacts and mitigation measures necessary to ensure

road safety and efficiency, the cost of which is to be borne by the applicant. The implementation of mitigation measures, including required road improvements necessitated by the subdivision, shall be the responsibility of the applicant as follows:

a. Where an existing access road is inadequate or unsafe, the Planning Commission may require the subdivider to upgrade the access road to the extent necessary to serve additional traffic resulting from the subdivision and to conform to the *Cavendish Town Highway and Bridge Standards*.

Commented [JR5]: Verify if this is consistent with current town standards.

b. In situations where a development may require the realignment, widening or an increase in the capacity of an existing road, or where the town plan indicates that such improvements may be required in the future, the subdivider may be required to reserve land for such improvements.

c. In the case of subdivisions requiring construction of new roads, any existing road that provides either frontage to new lots or access to new roads shall meet these standards.

370.8 Drainage & Stormwater: A stormwater drainage system shall be provided which is designed to control and accommodate stormwater collected on all proposed roads, driveways and/or parking areas in accordance with Section 360 of these Bylaws. Generally, roads, driveways, shoulders, ditches, culverts and bridges shall be designed, built and maintained in conformance with the *Vermont Better Backroads Manual*, as most recently amended.

Commented [JR6]: Municipal Roads General Permit

370.9 Coordination with Adjoining Properties: The arrangement of roads in the subdivision should provide for the continuation of roads of adjoining subdivisions and for proper projection of roads through adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic, and construction or extension of needed utilities and public services when later required. Where, in the opinion of the Planning Commission, topographic or other conditions make such continuance undesirable or impracticable, the above conditions may be modified.

370.10 Pedestrian Access: The Planning Commission may require appropriate facilities or rights-of-way to facilitate pedestrian circulation within the subdivision and to ensure access to adjoining properties or uses or public facilities.

Commented [JR7]: Within or adjacent to the villages of Cavendish or Proctorsville?

a. The Planning Commission may require, in order to facilitate pedestrian access from a subdivision to schools, parks, playgrounds, or other nearby roads, perpetual unobstructed easements at least 20 feet in width. Easements shall be indicated on the plat.

b. Unless specifically waived by the Planning Commission, curbs and sidewalks shall be required along internal streets of all subdivisions located within the village, hamlet or highway commercial districts. Sidewalks shall also be required to connect such subdivisions to existing sidewalks on adjoining properties.

370.11 Road Names & Signs: Road names and signs in accordance with Cavendish policies, as approved by the Selectboard, shall be clearly depicted on the final plat.

370.12 Legal Requirements:

a. Every subdivision plat shall show all proposed road and pedestrian rights-of-way, as required under these Bylaws, regardless of whether the proposed right-of-way is intended to be accepted by the town. In the event that the right-of-way is not intended for acceptance by the town, the mechanism by which the right-of-way is to be maintained, owned and/or conveyed

shall be clearly documented.

b. The maintenance of all subdivision roads, driveways, driveway aprons, and related drainage ditches, culverts and/or bridges is the sole responsibility of the property owner(s) or as otherwise determined in legal documentation. A recorded maintenance agreement or neighborhood association agreement shall be established for all lots with shared driveways or roads.

Section 380. Dedication of Open Space and Common Land

380.1 Preservation of Open Space: Land dedicated to open space shall be in a location or locations, and of a size and shape approved by the Planning Commission. Provisions for open space shall include but shall not be limited to the following objectives:

a. The location, shape, size and character of the open space land shall be suitable for its intended use(s) and shall be located to conform with and extend existing and potential common open space lands on adjacent parcels.

b. The open space land shall provide for the protection of natural and cultural resources pursuant to Section 320.

c. Open space land will be suitably improved and/or maintained for its intended use, except that open space containing important natural resources may be required to be left undisturbed.

d. The Planning Commission, as a condition of approval, may establish such conditions as it deems necessary to the ownership, use(s) and maintenance of land set aside as open space to assure the preservation of such lands for their intended purposes. Additional measures may also be imposed to protect resources identified on the parcel, such as establishing development envelopes pursuant to Section 320.2.

e. The Planning Commission may require that the Town be a party to any legal mechanisms for the protection of open space.

f. Road and driveway rights-of-way and parking spaces shall not be included in the determination of open space requirements per this Section.

g. Where a subdivision will accommodate a total of more than twenty-five dwellings, the Planning Commission may require the designation of recreation sites.

380.2 Creation of Common Land: Land held in common for the maintenance and protection of shared facilities may be held under separate ownership from contiguous parcels and shall be subject to the legal requirements set forth below. Such common land may be used for community wastewater systems, community water supplies, recreation or community facilities, or road and trail rights-of-way.

380.3 Legal Requirements: The Planning Commission may require that protected open space be dedicated, either in fee or through a conservation easement approved by the Commission, to the Town of Cavendish, a community association comprising all of the present and future owners of lots in the subdivision, and/or a non-profit land conservation organization. At a minimum, designated open space shall be indicated with appropriate notation on the final plat. Land held in common shall be subject to deed restrictions stipulating the permitted and restricted use of such land, and establishing the person or entity responsible for maintenance and long term stewardship. All costs associated with administering and maintaining open space and/or common land shall be the responsibility of the applicant and subsequent land owners.

Section 390. Disclosure of Subsequent Development Plans

Whenever an applicant submits a proposal for subdivision under Sketch Plan Review with the potential for further subdivision, the Planning Commission may require a general indication of the intended uses or a master plan of the remaining portion of land. Such an indication shall include access, type of use, intensity of use and phasing.

ARTICLE IV: ADMINISTRATION AND ENFORCEMENT

Section 410. Administration

410.1 Administrative Officer: The Administrative Officer is appointed by the Selectboard in accordance with the Act [§4448]. The Administrative Officer shall literally administer and strictly enforce the provisions of these Bylaws. In so doing, the Administrative Officer shall inspect subdivisions and required site improvements, maintain records and perform other related tasks as is necessary and appropriate.

In addition, the Administrative Officer shall coordinate the town's subdivision review processes. If other town permits or approvals are required, the Administrative Officer shall provide the applicant with the necessary forms.

The Administrative Officer will inform applicants that State permits may be required and that the applicant should contact State agencies to determine what permits must be obtained before any construction may commence. The applicant retains the obligation to identify, apply for and obtain relevant state and federal permits.

The Administrative Officer will inform applicants that, whenever a proposed subdivision is adjacent to a State highway, the application for subdivision approval shall include a letter from the Agency of Transportation confirming that the Agency has reviewed the proposed subdivision and determined whether a permit is required under 19 V.S.A. § 1111.

The Administrative Officer is authorized to approve minor subdivisions.

410.2 Planning Commission: The Planning Commission is appointed by the Selectboard in accordance with the Act [§4321]. As authorized by the Act [§4460 and §4463], the Planning Commission shall review all major subdivision applications and waiver requests under these Bylaws, as well as any appeals of decisions of the Administrative Officer in accordance with the Act [§4465].

Section 420. Fees, Independent Technical Review and Performance Bonds

420.1 Application Fees: Application fees for boundary adjustment, sketch plan, preliminary plan and final subdivision reviews shall be established by the Selectboard in accordance with the Act [§4440]. Such fee(s) shall include the costs for publishing hearing notices, conducting public hearings, administrative review, and periodic inspections by town staff and town-retained consultants during the installation of required site or public improvements.

420.2 Independent Technical Review: The Selectboard may also establish procedures and standards for requiring an applicant to pay for reasonable costs of an independent technical review of an application. Should the Planning Commission deem it necessary to employ an engineer, attorney, design professional or other consultant to review any subdivision plans or portion thereof, and/or any associated legal documentation, and/or to conduct inspections to ensure compliance with conditions of approval, all reasonable costs of such review shall be paid by the applicant.

Commented [JR8]: Town Manager?
Or consider other options.

Commented [JR9R8]: Develop an option to hire MARC to administer these bylaws for the town, and establish a fee structure that helps pay for this arrangement.

420.3 Performance Guarantee: If any subdivision requires improvements (as specified in ARTICLE III), the applicant shall follow the procedures set forth below and as required by the Planning Commission.

- (1) A performance and maintenance bond or other security may be required as a condition of any subdivision approval. In an amount set by the Planning Commission, and in a form approved by the Town Attorney, file with the Town Clerk a performance bond, irrevocable letter of credit or certified check to cover the required improvements and related maintenance .
- (2) A period of one (1) year shall be set forth in the bond, within which time required improvements must be completed. However, the Commission may, at its discretion, extend this period up to a total of three (3) years, and with agreement of the subdivider, may add three (3) additional years, for a total term of six (6) years.
- (3) If any required improvements have not been installed or maintained as provided within the term of the performance bond or other security, such bond or other security shall be forfeited to the Town in the amount necessary to complete the required improvements (in total or in part). The Town shall, if necessary, install or maintain such improvements to the extent of the proceeds from such bond or other security.
- (4) Before releasing the security, the subdivider shall complete all required improvements to the satisfaction of the Planning Commission or a duly designated consulting engineer registered in the State of Vermont who shall file with the legislative body a letter signifying the satisfactory completion of all improvements required by the Commission.

Section 430 Hearing Notice Requirements

430.1 Public Notice: All public hearings required under these Bylaws shall be warned in accordance with the Act [§4464(a) (1), 4463]. Public notice for a warned public hearing shall be given not less than fifteen (15) days prior to the hearing date, in accordance with the following:

- (1) the publication of the date, place and purpose of the hearing in a newspaper of general circulation in the town,
- (2) the posting of the date, place and purpose of the hearing in three or more public places within the town, including posting within view from the public right-of-way nearest to the property for which the application is being made, and
- (3) written notification to the applicant and to owners of all properties adjoining the property subject to subdivision, without regard to any public right-of-way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.
- (4) For a plat located within 500 feet of a municipal boundary, a copy of the notice also shall be sent to the municipal clerk of the adjoining municipality.
- (5) In the event that the hearing is canceled due to inclement weather or some other unanticipated cause, a notice of cancellation shall be posted on the door of the municipal building (or other meeting location, as appropriate). The notice of cancellation may include the date, time and location that the postponed hearing will be convened.

- (6) The Administrative Officer shall provide written notice to all abutters by hand delivery, U.S. mail or email to the last known address, supported by a sworn certificate of service.
- (7) No defect in the form of substance of any requirements in Subsections 430.1(1) – (3) shall invalidate the action of the Commission where reasonable efforts are made to provide adequate posting and notice. However, the action shall be invalid when the defective notice or posting or notice was materially misleading in content.

430.2 Hearings: In accordance with the Act [§4461, §4463, §4464], all meetings and hearings of the Commission, except for deliberative and executive sessions, shall be open to the public. The Planning Commission shall follow their *Rules of Procedure* in conducting public hearings. In addition:

- (1) For the conduct of any hearing and the taking of any action a quorum shall be not less than a majority of the members of the Commission, and any action shall be taken by a concurrence of the majority of the Commission.
- (2) The Commission shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating this, and shall keep records of its examinations and other official actions which shall be filed immediately in the Town Office as public records.
- (3) In any regulatory hearing of the Commission there shall be an opportunity for each person wishing to achieve status as an interested person, for purposes of participation or appeal under Section 450 to demonstrate that the criteria for achieving such status are met. The Commission shall keep a written record of the name, address, and participation of each of these persons.
- (4) The officers of the Commission may administer oaths and compel the attendance of witnesses and the production of material germane to any issue under review.
- (5) The Commission may recess a public hearing on any application pending submission of additional information, but should close evidence promptly after all parties have submitted requested information.

430.3 Decisions: In accordance with the Act [§4464(b)], the Commission may recess proceedings on any application pending the submission of additional information. The Commission will close evidence promptly after all parties have submitted requested information, and shall issue a decision within 45 days after the adjournment of the hearing. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective the 46th day, as certified by the Town Clerk. The certificate of the Town Clerk shall be attached to, filed and recorded with the subdivision plat.

- (1) All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on evidence of the record. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals may be taken under Section 450.3.
- (2) In rendering a decision in favor of the applicant, the Commission may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of the Act, these Bylaws, and the Cavendish Town Plan currently in effect.
- (3) All decisions shall be sent by certified mail, within the required 45-day period, to the applicant or to the appellant on matters of appeal. Copies of the decision also shall be mailed to every person or body appearing and having been heard at the

hearing, and filed with the Administrative Officer and Town Clerk as part of the public record of the municipality.

- (4) All decisions must be posted in the Town Offices and a Permit Notice must be posted in accordance with the Act [§4449(b)].
- (5) In accordance with the Act [§4464(c)], any decision issued by the Commission may authorize that subsequent changes or amendments to an approved subdivision may be allowed subject to administrative review by the Administrative Officer, rather than Commission review, in accordance with the following, which shall be specified in the Commission's decision:
 - (a) The decision shall clearly specify the thresholds and conditions under which administrative review and approval shall be allowed.
 - (b) The thresholds and conditions shall be structured such that no new subdivision or development shall be approved that results in substantial impact under the requirements of these Bylaws, or any of the thresholds or conditions set forth in the decision.
 - (c) No amendment issued as an administrative review shall have the effect of substantially altering the findings of fact of any Commission approval in effect.
 - (d) Any decision of the Administrative Officer authorized in this manner may be appealed to the Commission in accordance with Section 450.1.

Section 440 Enforcement and Penalties

- 440.1** The enforcement of these Bylaws shall be the responsibility of the Land Use Administrator in accordance with the Act [§4451, §4452]. Pursuant to the Act [§4451], no action may be brought under this section unless the alleged offender has had at least seven (7) days notice by certified mail that a violation exists. The warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. The issuance of a notice of violation may be appealed in accordance with Section 450.1. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the bylaw after the seven-day notice period and within the next succeeding twelve (12) months.
- 440.2** Any person who violates any of the provisions of these Bylaws shall be fined pursuant to the Act [§4451] for each offense; and each day that a violation continues shall constitute a separate offense.
- 440.3** Any person who sells or transfers any land in a subdivision or land development or erects any structure thereon without first having recorded a duly approved final plat under these Bylaws shall be fined pursuant to the Act [§4451]; and each lot, parcel, or unit so sold or transferred shall be deemed a separate violation.
- 440.4** Nothing herein contained shall be deemed to bar any other legal or equitable remedy provided in the Act [§4452] as presently enacted and as hereinafter amended, or otherwise to restrain, correct or prevent any violations of these Bylaws or prosecute violators thereof except as provided below.
- 440.5** The Town shall observe the 15-year limitations on enforcement proceedings relating to municipal permits and approvals as set forth in the Act [§4454].

Section 450 Appeals

- 450.1 Decisions of the Administrative Officer:** In accordance with the Act [§4465, §4466], any interested person may appeal a decision or act of the Administrative Officer [Land Use Administrator] under these Bylaws by filing a notice of appeal with the Secretary

of the Board of Adjustment, or the Town Clerk if no Secretary has been elected, within fifteen (15) days of the date of such decision or act. A copy of the notice of appeal shall also be filed with the Administrative Officer.

- (1) The notice of appeal shall include the name and address of the appellant, a brief description of the property with respect to which the appeal is taken, a reference to the regulatory provisions applicable to the appeal, the relief requested by the appellant, and the alleged grounds why the relief is believed proper under the circumstances.
- (2) Pursuant to the Act [§4468], the Board of Adjustment shall hold a public hearing on a notice of appeal within sixty (60) days of its filing. The Board shall give public notice of the hearing under Section 430 and mail a copy of the hearing notice to the appellant at least fifteen (15) days prior to the hearing date.
- (3) Any interested person empowered to make an appeal with respect to the property at issue may appear and be heard in person or represented by an agent or attorney at the hearing.
- (4) The rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in 3 V.S.A. §810.
- (5) In accordance with the Act [§4470], the Board of Adjustment may reject an appeal without hearing, and render a decision within ten (10) days of the filing of a notice of appeal, if the Board determines that the issues raised by the appellant have been decided in an earlier appeal, or are based on substantially or materially the same facts, by or on behalf of the appellant.

450.2 Decisions of the Planning Commission: Any *interested person* who has participated in a hearing of the Planning Commission may appeal a decision rendered in that proceeding within 30 days of such decision to the Vermont Environmental Court, in accordance with the Act [§4471, §4472].

- (1) "Participation" shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding.
- (2) A notice of appeal shall be filed by certified mailing, with fees, to the environmental court and by mailing a copy to the Town Clerk or the Land Use Administrator, if so designated, who shall supply a list of interested persons to the appellant within five (5) working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person listed.

450.3 Interested Person: In accordance with the Act [§4465], the definition of an interested person includes the following:

- (1) A person owning title to a property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by these Bylaws, who alleges that these Bylaws imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case.
- (2) The Town of Cavendish or an adjoining municipality.
- (3) A person owning or occupying property in the immediate neighborhood of a property that is the subject of a decision or act taken under this bylaw, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan or bylaw of the Town.

- (4) Any ten persons who may be any combination of voters or real property owners within the Town or an adjoining municipality who, by signed petition to the Planning Commission, allege that any requested appeal, if granted, will not be in accord with the policies, purposes, or terms of the *Town Plan* or *Subdivision Bylaws* of the Town. The petition must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal.
- (5) Any department or administrative subdivision of the State owning property or any interest therein within the Town or adjoining municipality, and the Vermont Agency of Commerce and Community Development.

Section 460 Recording Requirements

- 460.1** Pursuant to the Act [§4449(c)], within 30 days after a municipal land use permit including any final approval for land subdivision, has been issued, or within thirty (30) days of the issuance of a notice of violation, the Administrative Officer or other appropriate municipal official shall deliver the original or a legible copy of the municipal land use permit or notice of violation, or a notice of the municipal land use permit generally in the form set forth in 24 V.S.A. §1154(c), to the Town Clerk for recording as provided in 24 V.S.A. §1154(a).
- 460.2** The final subdivision plat (i.e. signed mylar) shall be filed or recorded within 180 days in the Town Clerk's office in accordance with the Act [§4463(b)]. The Administrative Officer may extend the date for filing the plat by an additional 90 days if final local or state permits or approvals are still pending. The final subdivision approval shall expire if the plat is not filed within this time frame.
- 460.3** The applicant shall be charged all recording fees.

Section 470 Waivers

- 470.1** In accordance with the Act [§4418(2)(A)], where the Planning Commission finds that extraordinary and unnecessary hardships may result from strict compliance with these Bylaws or where there are special circumstances of a particular plat, it may waive or modify these Bylaws so that substantial justice may be done and the public interest secured.
- 470.2** Where the Planning Commission finds that, due to the special circumstances of a particular plat, the provision of certain required improvements is not requisite in the interest of public health, safety, and general welfare, or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements, subject to appropriate conditions.
- 470.3** In granting waivers, the Planning Commission shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived or modified.
- 470.4** No such waiver may be granted if it would have the effect of nullifying the intent and purpose of the *Town Plan*, *Subdivision Bylaws*, and, if adopted, the Official Map and the Capital Budget and Program.

ARTICLE V: DEFINITIONS

Certain means of references and words used herein shall be defined as listed below. Unless the context clearly indicates to the contrary, words in the singular include the plural and those in the plural include the singular. The word "person" includes a corporation, unincorporated association and a partnership, as well as an individual. The word "building" includes structures and shall be construed as if followed by the phrase "or part thereof". The word "may" is permissive; the words "shall" and "will" are mandatory.

ACT: Title 24, Chapter 117, Vermont Statutes Annotated, The Vermont Municipal and Regional Planning and Development Act.

ABUTTER: The owner of record of a parcel of land which is contiguous at any point to the parcel being subdivided by having a common border, or being separated from such a common border by a right-of-way, alley or easement.

AUTHORIZED AGENT OR REPRESENTATIVE: A person or group of persons, who have been duly authorized in writing filed with the Commission by the subdivider to act in his or her behalf.

BUFFER: A designated strip or area of land intended to visibly and/or functionally separate one use from another; to shield or block noise, lights or other nuisance from neighboring properties; and/or to lessen visual or physical impacts of development on surface waters, wetlands and other natural and scenic areas.

BOUNDARY ADJUSTMENT: Moving a property boundary between two or more adjoining parcels that creates no new separate lots or parcels and has no adverse impact on access, the provision of public services and utilities, or neighboring uses. A boundary adjustment may be approved under administrative review by the Administrative Officer in accordance with Section 210.3. However, if the administrative review criteria listed in Section 210.3(1) are not met, the proposal is subject to subdivision review by the Planning Commission.

COMMISSION: The Planning Commission of the municipality created under 24 V.S.A. Chapter 117, Subchapter 2.

COMMON LAND: Land within a development or subdivision that is not individually owned or dedicated for public use, but which is intended to be held in common for use, enjoyment, management or maintenance by the residents of the development or subdivision. Such land may include but not be limited to open space areas, parking lots, pedestrian walkways, utility and road rights-of-way.

COMMUNITY SEWAGE DISPOSAL SYSTEM: Any sewage disposal system, other than a municipal sewage disposal system, owned by the same person that disposes of sewage for domestic, commercial, industrial or institutional uses to two (2) or more customers.

COMMUNITY WATER SUPPLY SYSTEM: Any water system owned by the same person that supplies water for domestic, commercial, industrial or institutional uses to two (2) or more, but less than ten (10) customers.

CONFORMANCE WITH THE TOWN PLAN: A proposal that (1) makes progress toward attaining, or at least does not interfere with the goals and policies contained in the Cavendish Town Plan; (2) provides for future proposed land uses, densities and intensities of development contained in the Town Plan; and (3) carries out, as applicable, any specific proposals for community facilities, or other proposed actions contained in the Town Plan.

CONSTRUCTION DRAWINGS: The drawing showing the location, profile grades, size and types of drains, sewers, water mains, underground fire alarm ducts, underground power and telephone ducts, pavements, cross sections of streets, miscellaneous structures, etc.

DEVELOPMENT: The construction, relocation or reconstruction of any structures or making site improvements for subdivisions, including land clearing, excavation, and constructing driveways and other utilities.

DEVELOPMENT ENVELOPE: A specific area delineated on a plat within which all structures and other designated site improvements (e.g. parking areas) are to be located, and outside of which no structures are to be located. The Planning Commission may, as a condition(s) of plat approval, limit other site development activities, such as cutting, outside of the building envelope.

DRIVEWAY: A minor, private travel way, serving up to two adjoining parcels, that provides vehicular access from an adjoining road to a parking space, garage or other structure. Any access serving three or more parcels is considered as a *road*.

EASEMENT: The authorization of a property owner for the use by another person, corporation or for the use of the public, and for a specified purpose, of any designated part of his or her property.

FINAL SUBDIVISION PLAT: The final drawings on which the subdivider's plan of subdivision is presented to the Planning Commission for approval and which, if approved, shall be filed for record with the Municipal Clerk, prepared as required under Section 460 hereof.

FINAL SUBDIVISION APPROVAL: Approval, or approval with conditions, by the Planning Commission following a duly warned public hearing under final subdivision review procedures set forth in Section 250. The approval shall expire after 180 days if a signed plat is not recorded in the town land records in accordance with Section 460.

FOREST SOILS: Soils which are not primary agricultural soils, but which have reasonable potential for commercial forestry and which have not yet been developed. In order to qualify as forest soils, the land containing such soils shall be of a size and location, relative to adjoining land uses, natural conditions and ownership patterns so that those soils will be capable of supporting or contributing to a present or potential commercial forestry operation.

HISTORIC DEVELOPMENT PATTERN: Compact village/urban centers separated by rural countryside.

HISTORICAL RESOURCES: Properties, structures and other resources that are historically significant and as identified in the *Cavendish Town Plan* or by the Vermont Division for Historic Preservation, or are listed in or have been determined to be eligible for listing in the National Register of Historic Places.

LEGISLATIVE BODY: The selectmen in the case of a town, the trustees in the case of an incorporated village, and the prudential committee of a fire district.

MUNICIPALITY: Town, City, or Incorporated Village.

NATURAL RESOURCES: Existing natural elements - including land, water, air, plant and animal life and habitat, and the interrelationships of these elements - that are actual or potential resources for the municipality as discussed in the *Cavendish Town Plan*.

OFFICIAL MAP: The map authorized under 24 V.S.A. Section 4421 that identifies future municipal utility and facility improvements, such as road or recreational path rights-of-way.

OPEN SPACE: Land unoccupied by structures, buildings, streets, rights-of-way or automobile parking lots that is set aside, dedicated or reserved for public or private use or enjoyment.

PERFORMANCE BOND (or Guarantee): A performance guarantee or other security constitutes a contractual obligation made by the applicant for the benefit for the Town against loss due to the inability of the applicant to install or properly install infrastructure as may be required as a condition of a subdivision approval. The performance guarantee may be in any

form accepted by the Cavendish Select Board, often in the form of cash, surety bond or letter of credit.

PHASING: Development undertaken in a logical time and geographical sequence, typically to ensure that development is coordinated with the provision of services and facilities and will not result in adverse environmental impacts.

PLAT: A map of a subdivision or lot line adjustment, drawn to scale by a licensed land surveyor and meeting all requirements of 27 V.S.A. §1403 for recording, showing the boundaries and location of individual properties, streets and utilities.

PRIMARY AGRICULTURAL SOILS: Soils which have a potential for growing food and forage crops, are sufficiently well drained to allow sowing and harvesting with mechanized equipment, are well supplied with plant nutrients or highly responsive to the use of fertilizer, and have few limitations for cultivation or limitations which may be easily overcome. In order to qualify as primary agricultural soils, the average slope of the land containing such soils does not exceed 15 percent, and such land is of a size capable of supporting or contributing to an economic agricultural operation. Unless contradicted by the definition stated in this section or by site investigations by a qualified soil scientist, primary agricultural soils shall include farmland soils map units with a rating of prime as defined by the Natural Resource Conservation Service (NRCS) of the U.S. Department of Agriculture (USDA).

PUBLIC WATER SYSTEM: Any water system(s) owned by the same person that supplies water for public, domestic, commercial or industrial uses to ten (10) or more customers by pipe connection or by containers.

RIGHT-OF-WAY (ROW): A strip of land legally reserved, dedicated or condemned establishing the right of passage and/or to construct and maintain facilities, such as driveways, roads, trails or utilities.

REGIONAL PLANNING COMMISSION: Planning Commission for a region created under Subchapter 3 of the Vermont Planning and Development Act, Title 24 V.S.A. Chapter 117.

RESUBDIVISION: A change of recorded subdivision plat if such change affects any street layout on such plat, or area reserved thereon for public use, or any change of a lot line, or any such change if it affects any map or plan legally recorded.

ROAD: Any road, highway, avenue, street, land or other travelway between right-of-way lines, commonly used by the public for vehicular traffic. A road may either be private or public. Any new access that serves three or more parcels shall be considered a road, and not a driveway.

RURAL CHARACTER OR RURAL COUNTRYSIDE: The collection of dominant, physical features of a landscape that include: sparse development; low population density; abundant forest cover; evidence of agricultural activity including farm buildings, farm animals, cultivated fields, and pastures; stone walls; dirt roads; early American architecture and building materials.

SKETCH PLAN: An informal sketch of the proposed subdivision showing information specified in Section 230 of these Bylaws to enable the subdivider to save time and expense in reaching general agreement with the Planning Commission as to the form of the subdivision and objectives and requirements of these Bylaws. Sketch plan review is required of all subdivision proposals.

SOILS OF STATEWIDE SIGNIFICANCE: Farmland soils with a rating of soils of statewide importance as defined by the NRCS of the USDA.

STREET: See Road.

SUBDIVIDER: Any person, firm, corporation, partnership or association who shall lay out for the purpose of sale or development any subdivision or part thereof as defined herein, either for himself/herself or others.

SUBDIVISION: The division of a lot or parcel of land into two or more lots, parcels, sites or other divisions of land for the purpose, whether immediate or future, of sale, development or lease. It includes resubdivision, amendments to subdivisions, amendments to conditions of plat approval, and/or the division of a lot or parcel held in common ownership and subsequently divided into parts among the owners. Property under common ownership that is divided by a state highway or class 1, 2, or 3 town road or by the Black River or North Branch of the Black River will be considered as separate parcels. A subdivision also includes certain lot line adjustments that do not meet the criteria in Section 210.3 of these Bylaws.

TOWN PLAN: A plan adopted pursuant to 24 V.S.A. Section 4381.

TOWN HIGHWAY, CLASS 1: Town highways designated by the Agency of Transportation which are part of a state highway route and which carry a State highway route number. There are no Class 1 town highways in Cavendish.

TOWN HIGHWAY, CLASS 2: Town highways selected as the most important highways in each town. As far as practicable they shall be selected with the purposes of securing trunk lines of improved highways from town to town and to places which by their nature have more than normal amount of traffic. The selectmen, with the approval of the agency, shall determine which highways are to be class 2 highways.

TOWN HIGHWAY, CLASS 3: All other traveled town highways, other than Class 1 or Class 2, designated by the legislative body of the Municipality, after conference with a representative of the Agency of Transportation.

TOWN HIGHWAY, CLASS 4: All other town highways-that are not Class 1, 2, or 3 highways or unidentified corridors, designated by the legislative body of the Municipality.

TOWN PLAN: The *Cavendish Town Plan* as most recently adopted.

UNDUE ADVERSE IMPACT: An adverse impact or effect that meets any one of the following criteria: (1) The project violates a clear, written community standard – including a provision of these Bylaws or a specific policy of the town plan – intended to preserve the aesthetics or scenic, natural beauty of the area; (2) The project offends the sensibilities of the average person; or, (3) The applicants have failed to take generally available mitigating steps that a reasonable person would take to improve the harmony of the proposed project with its surroundings.

WAIVERS: The modification of one or more requirement(s) of these Bylaws by the Planning Commission in accordance with the authority granted under Section 470. Such waiver authority shall be exercised solely at the discretion of the Planning Commission upon positive findings that because of the special circumstances of a particular subdivision application, the waived or modified requirement(s) are not requisite in the interest of public health, safety and general welfare, or are inappropriate due to the inadequacy of connecting facilities adjacent or in proximity to the subdivision.

APPENDIX A - RESOURCES

Farmland - Farmland as referenced in Section 320.7 are shown on *Cavendish Town Plan* maps. Geographic Information Systems data is available through the Vermont Center for Geographic Information: <http://www.vcqi.org/>

Floodplains - Floodplains as referenced in Section 320.3 are shown on *Cavendish Town Plan* maps. Geographic Information Systems data is available through the Vermont Center for Geographic Information: <http://www.vcqi.org/>. The floodplain maps are also available at the FEMA website: <http://www.fema.gov/>

High Elevation Areas - High elevation areas as referenced in Section 320.4 are shown on *Cavendish Town Plan* maps. Geographic Information Systems data is available through the Vermont Center for Geographic Information: <http://www.vcqi.org/>

Historic and Cultural Resources - These resources as referenced in Section 320.6 are discussed in the *Cavendish Town Plan*. Limited Geographic Information Systems data is available through the Vermont Center for Geographic Information: <http://www.vcqi.org/>. Contact the Vermont Division for Historic Information for additional information: 802-828-3213; <http://www.historicvermont.org/>

Low Risk Site Handbook for Erosion Prevention and Sediment Control - This document as referenced in Section 360.2 is available at <http://www.anr.state.vt.us/cleanandclear/erosion.htm>

Rules of the Vermont Board of Land Surveyors - As referenced in Section 280, these rules can be found at the following website: <http://vtprofessionals.org/opr1/surveyors/lrules.pdf>

Steep Slopes - *Steep slopes* as referenced in Section 320.4 are shown on *Cavendish Town Plan* maps. Geographic Information Systems data is available through the Vermont Center for Geographic Information: <http://www.vcqi.org/>

Surface Waters - Surface waters, including rivers, streams, lakes and ponds, as referenced in Section 320.3 are shown on *Cavendish Town Plan* maps. Geographic Information Systems data is available through the Vermont Center for Geographic Information: <http://www.vcqi.org/>

Vermont Erosion Prevention and Sediment Control Field Guide - This document as referenced in Section 360.2 is available at <http://www.anr.state.vt.us/cleanandclear/erosion.htm>

Vermont Municipal and Regional Planning and Development Act - Available at the following website: <http://www.leg.state.vt.us/statutes/sections.cfm?Title=24&Chapter=117>

Vermont Standards and Specifications for Erosion Prevention and Sediment Control - This document as referenced in Section 360.2 is available at <http://www.anr.state.vt.us/cleanandclear/erosion.htm>

Cavendish Driveway and Highway Access Ordinance - Available at the Town Offices and on the Town's website: <http://www.Cavendish.org/>

Cavendish Town Highway and Bridge Standards - Available at the Town Offices and on the Town's website: <http://www.Cavendish.org/>

Cavendish Town Plan - Available at the Town Offices and on the Town's website: <http://www.Cavendish.org/>

Wetlands - Wetlands as referenced in Section 320.3 are shown on *Cavendish Town Plan* maps. Geographic Information Systems data is available through the Vermont Center for Geographic Information: <http://www.vcqi.org/>

WILDLIFE HABITAT - Wildlife habitat as referenced in Section 320.5 are discussed in the *Cavendish Town Plan*. A number of data sources exist including:

- Geographic Information Systems data - including wildlife habitat suitability, wildlife crossing value, vehicle-animal collisions, deer wintering areas; rare, threatened and endangered species - is available through the Vermont Center for Geographic Information: <http://www.vcqi.org/>