

## Article VI – Development Review Procedures

**Introduction:** No land development or subdivision of land, as defined under [Article IX](#), may commence in the City of Winooski until all applicable municipal land use permits and approvals have been issued as provided for under the Act [§ 4446] and these regulations, unless the development is specifically exempted from municipal regulation under [Section 6.13](#). This Article of the Winooski Zoning Regulations provides a comprehensive overview of development review procedures that apply to all types of development throughout the city: subdivision and other land conveyances, planned unit developments, site plan, conditional use, variance, appeal, zoning permit and certificate of compliance/occupancy. This Article also identifies uses and structures that are exempt from Winooski development review.

**A. Permit Requirements.** Municipal land use permits and approvals under these regulations include:

1. Zoning permits issued by the ZA under [Section 6.10](#) for all development.
2. Site plan approval issued by the DRB under [Section 6.6](#) for all permitted uses that require site plan review.
3. Conditional use approval issued by the DRB under [Section 6.7](#) for all conditional uses listed under Article II, and for other development as specified in these regulations.
4. Subdivision approvals issued by the DRB under [Section 6.2](#) for the subdivision or re-subdivision of land.
5. Planned unit development (PUD) approval under [Section 6.3](#) for planned development.
6. Certificates of occupancy issued by the ZA under [Section 6.12](#), for development for which a zoning permit has been issued prior to occupancy or use.

**B. Additional Permits and Approvals.** Additional municipal, state and federal permits or approvals may be required for activities associated with land development and subdivision including, but not limited to the following:

1. Highway Access Permits issued by the Public Works Department and/or City Council to access or work within town highway rights-of-way, or the Vermont Agency of Transportation (VTTrans) to access or work within state right-of-ways.

2. City building permits, water/wastewater allocations and connection permits, sewer connection permits issued by the Building Code Officer, Public Works Director and/or the City Fire Marshall.
3. A variety of state permits or certifications including but not limited to: wastewater (septic) system and potable water supply permits, construction and stormwater permits, wetlands permits, stream alteration or crossing permits, public health and safety permits, child care facility licenses and Act 250 permits.
  - a. As required under the Act [§ 4449(e)], municipal application forms and municipal land use permits or approvals issued under these regulations shall include a statement, in content and form approved by the Secretary of the Agency of Natural Resources, that state permits may be required and that the applicant or permittee should contact the state's regional permit specialist or individual state agencies to determine which state permits must be obtained before any construction may commence.
  - b. The ZA or DRB may require that an applicant submit a state project review sheet with their application that identifies state and federal permits to be obtained by the applicant.
4. Documentation that state, federal and other municipal permits and approvals have been obtained by the applicant may be required, as applicable, prior to:
  - a. the issuance of a certificate of occupancy under **Section 6.12**;
  - b. submitting an application for final subdivision review under **Section 6.2**, unless waived by the DRB; and
  - c. recording a subdivision plat in the land records of the City under **Section 6.2**.

## SECTION 6.1 - Pre-application Meeting

A. Intent. All applicants or their authorized agents are encouraged to meet with the ZA prior to filing an application for any type of development in the City. The purpose of this meeting is to provide the applicant with the necessary forms and information needed to file a complete application, and to discuss review procedures and requirements.

B. At this meeting, the ZA will:

- a. Review and discuss the proposed development with the applicant to classify the development review process needed under these regulations, and to help identify options for design that best meet the needs of the applicant and the requirements of these regulations.
- b. Provide application forms and checklists, and identify for the applicant what materials will be needed to file a complete application for referral to the DRB, before site visits and hearings can be scheduled.
- c. Explain the timing requirements for submissions, hearings, decisions, and plat recording.
- d. Identify any other applicable city ordinances and permit requirements that pertain to the development, and recommend that the applicant address these requirements in design.
- e. Direct the applicant to contact the state's Regional Permit Specialist to complete a state project review sheet that identifies state or federal permits that also may be required.

C. Meeting Follow-up. Within 15 business days of the meeting, the ZA will issue a written letter to the applicant that:

- a. summarizes the content of the meeting, including issues to be addressed in the application;
- b. classifies the type of development; and
- c. outlines the requirements for the submission of a complete application.

## Section 6.2 - Subdivisions

A. **Purpose.** Subdivision regulations, in accordance with the Act [§ 4418], are intended to address the relocation of property boundaries, the creation of new lots, and the recording of plats in the City Land Records. Subdivision review and approval by the DRB ensures that lots meet applicable zoning district requirements and are suited for their intended use. Often, but not always, land development that creates new lots also includes the placement of buildings and other site improvements. The specific regulation and review of such buildings and site improvements are elsewhere in this ordinance.

**B. Applicability.** These regulations shall apply to all subdivisions of land, as defined under **Article IX**, that are located within the City of Winooski. No land shall be subdivided within the city until the applicant has obtained final subdivision approval from the DRB and the approved subdivision plat is recorded in the Winooski land records. Subdivision approval by the DRB is required prior to:

1. The transfer, sale or long-term lease of title to property (as defined under 32 V.S.A. § 9601) of any portion of an existing lot. See **C.2** below for exemptions.
2. Predevelopment site work, including site clearing, grading, and the construction or installation of infrastructure or other site improvements that are intended to serve more than one lot (excluding forestry, agricultural, and land surveying activities).
3. Recording a subdivision plat or the deed for subdivided lot in the land records of the city.
4. Applying for a zoning permit to develop a subdivided lot.

**C. Exemptions.** The following are exempt from subdivision review under these regulations:

1. Rights-of-way or easements that do not result in the subdivision of land.
2. Condominium developments, footprint lots, and other similar ownership structures, on one parcel of land shall require Site Plan review and approval, not Subdivision review and approval.
3. Revisions to existing lot lines in accordance with **Section 6.4**.
4. A parcel or portion of a parcel of land leased for agriculture or forestry that does not require the sale or transfer of land, or the establishment of permanent roads, infrastructure or structures.

**D. Classification of Subdivisions.** For purposes of these regulations, subdivisions of land will be classified by the ZA as either "minor" or "major" subdivisions as follows:

1. Minor subdivisions include:

- a. The subdivision of land or the re-subdivision of a previously subdivided lot which results in the creation of no more than three lots including previously subdivided lots, regardless of any change in ownership; and which does not require the installation or extension of a road or municipal utilities.
- b. An amendment to an approved subdivision or subdivision plat that does not substantially or materially alter findings and prior conditions of subdivision approval.

2. Major subdivisions include:

- a. The subdivision of land or re-subdivision of a previously subdivided lot which results in a total of four or more lots including previously subdivided lots, or requires the installation or extension of a road right-of-way or municipal utilities.
- b. An amendment to a previously approved major subdivision which alters the number of lots, the density of development, the location of building envelopes, rights-of-way or easements, or otherwise substantially or materially alters the findings, terms or conditions of prior subdivision approval.
- c. All planned unit developments under **Section 6.3**.

**E. Modifications & Waivers.** The DRB may waive any standard under this article that it determines does not apply to a particular subdivision.

1. In accordance with the Act [§ 4418(2)], the DRB also may modify or waive a standard under this article, subject to conditions if it determines that, due to circumstances specific to a particular application:
  - a. The standard is not requisite in the interest of the public health, safety and general welfare, or the standard is inappropriate because of the inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision; and

- b. The modification or waiver will not nullify the intent and purpose of these regulations, the Winooski Municipal Development Plan, or other city bylaws and ordinances in effect at the time of application.
2. Requests for modifications or waivers under this section shall be submitted by the applicant in writing with the application for preliminary or final subdivision review. The applicant must provide sufficient information for the DRB to make findings that justify the modification or waiver, with or without conditions.
3. The DRB may require an independent technical review of a proposed modification or waiver, as specified under Subsection B above, that identifies related impacts and mitigation measures that may be incorporated under associated conditions of approval.
4. In granting a modification or waiver, the DRB shall make explicit findings that:
  - a. Specify the circumstances that justify granting a modification or waiver.
  - b. State how granting the modification or waiver will not nullify the intent and purpose of these regulations or the Winooski Municipal Development Plan, including the plan's stated goals and objectives for the relevant zoning district(s), and other regulations in effect at the time of application.
  - c. State what conditions, if any, shall be required of the applicant in exchange for granting the modification or waiver, as necessary to mitigate adverse impacts.

F. **Additional Information.** The DRB may require, as necessary to assist in its evaluation and determine project conformance with these standards:

1. Written disclosure of the intended use of land to be subdivided and general plans for the subsequent development of any land to be retained by the owner or applicant when only a portion of an existing parcel is to be subdivided.
2. The submission of additional information or studies under one or more standards of review, including an independent technical review prepared by a qualified professional retained by the DRB and paid for by the applicant.

3. The modification of subdivision lot layout and design, the phasing of development, or other reasonable and necessary measures to avoid or mitigate undue adverse impacts resulting from the proposed subdivision and subsequent development of subdivided lots.

G. **Coordination of Review.** Subdivision review and approval by the DRB is required prior to site plan or conditional use review by the DRB or the issuance of zoning permits for the subsequent development of subdivided lots. The conditions of subdivision approval shall apply under subsequent review processes. However, site plan or conditional use review may be conducted concurrently by the DRB with final subdivision review.

H. **General Standards.** All land to be subdivided shall be suitable for the intended use and proposed density of development. The subdivision shall not result in undue adverse impacts to public health and safety, the natural environment, neighboring properties and uses, or the character of the area in which it is located. Subdivision applications shall be reviewed for compliance with the following standards:

1. **Development Density.** The allowed density of development within a subdivision shall be calculated by dividing the total land area to be subdivided, excluding existing and proposed road rights-of-way, by the minimum lot size specified for the zoning district(s) in which the subdivision is located (see Article II), except as modified for planned unit developments under **Section 6.3**.
2. **Existing Site Conditions.** Subdivision layout and design, to the extent physically feasible, shall incorporate and avoid undue adverse impacts to significant natural, historic and scenic resources identified from the Winooski Municipal Development Plan, maps and related inventories, or through site investigation in accordance with **Section 4.8**, the **Historic Structure Section of Design Review in Section 4.4**, and other relevant sections of these regulations.
3. **Winooski Municipal Development Plan & Regulations.** Subdivisions shall conform to clearly stated policies and objectives in the Winooski Municipal Development Plan as most recently amended, other provisions of these regulations, adopted capital improvement programs, and other city bylaws, ordinances and regulations in effect at the time of application.
4. **District Settlement Patterns.** A subdivision shall be designed and configured to reflect the desired settlement pattern for the zoning district(s) in which it is located, as defined under Article II and the Winooski Municipal

Development Plan. To this end, the following standards shall apply to subdivisions within respective zoning districts:

- a. **Residential Zoning Districts.** Subdivision within this district shall be designed and configured to reinforce a compact residential, pedestrian scale and pattern of development. Lots and building envelopes shall be sized and located to maintain a consistent building line and streetscape along roads, and to maintain privacy in the rear. Subdivisions in this district also shall be designed to incorporate, extend, or connect to existing roads, sidewalks and utility corridors. Sidewalks and other pedestrian facilities shall be provided where physically feasible; new roads in these districts shall be designed to maximize pedestrian and bicycle safety and circulation.
- b. **Commercial Zoning Districts.** Subdivision within this district shall be designed and configured to reinforce a compact, multistory commercial, residential and/or mixed use, pedestrian scale and pattern of development. Lots and building envelopes shall be sized and located to place buildings at the sidewalk with entrances and windows across the façade. Lots adjacent to residential zoning districts shall maintain a buffer to ease the transition from high intensity commercial districts to the residential districts. Subdivisions in this district also shall be designed to incorporate, extend, or connect to existing roads, sidewalks and utility corridors. Sidewalks, pedestrian and bike facilities shall be provided where physically feasible; and new roads in these districts shall be designed to maximize pedestrian and bicycle safety and circulation. Parking shall be placed behind buildings as best as possible. Parking shall be placed either behind, within, or to the side of structures. Any development within the Downtown Core district is subject to the Master Plan as described in **Article II**.
- c. **Industrial Zoning Districts.** Subdivisions within the Industrial Districts shall be designed and configured to avoid undue adverse impacts to existing natural resources. Lots adjacent to residential zoning districts shall maintain a buffer to ease the transition from industrial uses to residential uses. Subdivisions in this district also shall be designed to incorporate, extend, or connect to existing roads, sidewalks and utility corridors. Sidewalks, pedestrian facilities, bike facilities shall be provided where physically feasible; and new roads in these districts shall be designed to maximize pedestrian and bicycle safety and circulation. Parking shall be placed behind buildings to the extent possible.

5. **Lot Layout.** Lots and lot layouts shall be configured to:
  - a. be suitable for their intended use, for subsequent development (building lots) or for public use or common open space areas;
  - b. conform to desired district settlement patterns, as required under **Subsection H.4**;
  - c. meet minimum lot size and density requirements under Article II, except as modified for planned unit developments under **Section 6.3**;
  - d. avoid irregularly shaped lots (e.g., with curves, jogs, dog-legs, etc.), unless warranted due to topographic or other physical site constraints, or to minimize the fragmentation of natural, scenic or cultural resources under **Section 4.8**.
  
6. **Building Envelopes.** The designation of building envelopes to limit the location of structures, parking areas, and associated site improvements to one or more portions of a lot shall be required for all subdivided lots, as shown on the subdivision plat. The location, size and shape of each building envelope shall be established in accordance with these regulations, including zoning district requirements under Article II, and resource protection standards under **Section 4.8**. The DRB also may require the identification of specific building locations (footprints) if, in its judgment, such information is needed to determine conformance with these regulations.
  
7. **Survey Monuments.** The locations of all proposed permanent surveying monuments and corner markers, as required under the Rules of the Board of Land Surveyors, shall be identified on the final subdivision plat. The DRB may also require that the corner points of designated building envelopes be marked on the ground with iron pins and identified on the final subdivision plat.
  
8. **Landscaping & Screening.** Landscaping and screening shall be provided, in accordance with **Section 4.7**.
9. **Energy Conservation.** Subdivision design and layout, to the extent physically feasible, should encourage energy efficient design by:
  - a. Locating and orienting sites (e.g., building lots, envelopes) to maximize southern exposures where available, and solar access for solar energy and heating systems.

- b. Clustering development (e.g., building lots, envelopes) to minimize road and utility line extensions and to allow for group net-metering.
  - c. Incorporating existing topography, natural vegetation and landscaping to provide wind breaks, seasonal shade and solar access, and to reduce building heating and cooling needs.
10. **Common Open Space Areas.** The location, size and shape of lands set aside to be preserved and managed as common open space areas shall be suitable for their intended purpose and use and approved by the DRB, in accordance with **Section 4.8**.
11. **Stormwater Management and Erosion Control.** Temporary and permanent stormwater management and erosion control measures shall be used during all phases of subdivision development as necessary to limit surface runoff and erosion, protect water quality and to avoid damage to downstream properties in conformance with **Section 4.15**. In addition, building envelopes, driveways, road and utility corridors shall be located to minimize site disturbance on steep slopes (15% or more) and, to the greatest extent feasible, avoid site disturbance on very steep slopes (25% or more) in accordance with **Section 4.8**.
12. **Access & Driveways.** Access to the subdivision and to individual lots within the subdivision shall at minimum meet the requirements of **Section 4.2 (Access)** and the relevant sub-parts of **Section 4.10 (Parking)**, and the following:
- a. All lots created after the effective date of these regulations that are intended for development must meet minimum applicable frontage requirements along public road rights-of-way for the district(s) in which they are located unless modified or waived by the DRB for planned unit development under Article IX. The DRB may also reduce or waive district lot frontage requirements for:
    - i. minor (up to three lot) subdivisions accessed by a shared driveway; or
    - ii. lots that will be maintained in perpetuity as undeveloped open land to be used only for passive outdoor recreation or resource conservation.

- b. Access permits, as required under **Section 4.2**, are required prior to filing an application for final subdivision review.
  - c. Access to a subdivision shall conform to adopted state or municipal access management plans and capital improvement plans. Planned highway and access improvements, including proposed rights-of-way, shall be incorporated in subdivision design. Right-of-way reservations may be required as necessary to accommodate planned improvements.
13. **Driveways.** Driveways serving minor subdivisions of three or fewer lots shall meet the requirements of **Section 4.2** and the Winooski Public Works Specifications in effect at the time of application. For the purposes of these regulations, driveways serving four or more lots shall be considered development roads subject to the requirements of **Subsection H.14**.
14. **Development Roads.** The following road standards shall apply to all rights-of-way serving or accessing four or more lots. Roads shall be considered private roads until such time as they are accepted by the City of Winooski as a public road in accordance with adopted city road policies, ordinances and state statutes.
- a. Layout. To promote safety, to facilitate traffic flow and emergency vehicle access, and to protect significant resources, roads shall, to the extent physically feasible, be laid out to:
    - i. Provide a right-of-way for access to adjacent lots for future development.
    - ii. Follow existing linear features where physically feasible (e.g., utility corridors, tree and fence lines), and meet other requirements for the protection of identified resource and hazard areas under **Section 4.8**.
    - iii. Logically relate to topography, following contour elevations, to minimize the amount of cut and fill required and to maintain reasonable finished grades and safe intersections.
    - iv. Extend or connect to existing or planned roads adjoining the subdivision, under joint agreement or in common or public ownership.

15. **Improvements.** The proposed subdivision shall not unduly burden town or state highways, including roads and intersections in the vicinity of the project. Any highway access, drainage, lane, or other infrastructure or traffic control improvements necessitated by the proposed subdivision shall be paid for and installed by the applicant, unless otherwise approved by the DRB in consultation with the City Council or state highway officials. The DRB also may require as conditions of approval, as necessary to ensure compliance with these regulations:
  - a. Performance bonding or other form of surety acceptable to the City Council to ensure that required road, intersection and related infrastructure improvements are installed as approved by the DRB.
  - b. The phasing of development in relation to planned state or municipal transportation infrastructure improvements included in adopted capital improvement programs.
  - c. A development agreement approved by the City Council governing the timing, installation and any agreed upon cost-sharing arrangements between the subdivider and the city or other affected property owners.
  
16. **Names, Signs and 911 Locator Numbers.** Road names shall be approved by the Winooski City Council as part of the subdivision process. Approved road names and assigned 911 locator numbers for each parcel shall be clearly depicted on the final plat, and identified on signs approved by the ZA.
  
17. **Transit Facilities.** The DRB may require that subdivisions located on existing or planned transit routes, including school bus routes, incorporate a sheltered transit or bus stop in subdivision design.
  
18. **Public Facilities & Utilities.** The DRB shall find that the proposed subdivision does not create an undue burden on existing and planned public facilities in accordance with **Section 4.16**. The applicant and DRB may consult with appropriate municipal and school officials and emergency service providers to determine whether adequate capacity exists to serve the subdivision.
  
19. **Legal Requirements.**
  - a. Common open space areas may be held in common ownership or in separate individual ownership from contiguous parcels. At minimum, land designated as common open space areas shall be indicated with

appropriate notation on the final subdivision plat. In addition, the DRB may consider, as required for long-term protection:

- i. A restriction prohibiting the further subdivision of a conserved lot or other protected open space area, as noted on the final plat and in accompanying legal documentation.
  - ii. The dedication of such land, either in fee or through a conservation easement approved by the DRB, to the municipality, an owners' association comprised of all present or future owners of subdivided lots, the applicant, and/or a nonprofit conservation organization with the demonstrated capacity and qualifications to manage conservation easements.
- b. The applicant shall provide documentation and assurances that all required improvements, associated rights-of-way and easements, and other common lands or facilities will be adequately maintained in accordance with an approved management plan, either by the applicant, an owners' association, or through other legal means acceptable to the DRB. Draft management plans and documentation must be submitted with the application for final subdivision review, for approval by the DRB. The DRB may forward submitted documentation to the City Council and City attorney for review. All legal documents, as approved by the DRB, shall be filed in the land records of the City in association with recording the final subdivision plat.
- c. All required improvements shall be constructed to approved specifications in accordance with a construction schedule approved by the DRB. The DRB may require the issuance of a Certificate of Compliance to ensure that all such improvements are completed prior to the issuance of zoning permits for the subsequent development of subdivided lots.

#### **I. Sketch Plan Review.**

1. Sketch plan review is an informal, pre-application review process intended to acquaint the DRB with a proposed subdivision during the conceptual stage of the design process, before the applicant incurs significant expense in preparing a formal application. As such, the sketch plan review process and letter do not bind the municipality or the applicant, and are not subject to appeal under **Section 6.9**. This informal review and discussion at a regular meeting of the DRB helps identify the type of subdivision and subdivision layout that will best meet the needs of the subdivider and the requirements

of these regulations. An applicant is required to submit a sketch plan prior to the submission of a formal application to the DRB. At minimum, the following will be addressed at the Sketch Plan review:

- a. Consider whether the subdivision, as initially proposed, would be classified as a major or minor subdivision, or planned unit development to be reviewed as a major subdivision.
- b. Discuss the subdivision review process and any proposed waivers requested by the applicant.
- c. Discuss the proposed subdivision's general conformance with the Municipal Plan, these regulations, and any other municipal regulations, ordinances or capital improvement programs currently in effect.

2. **Sketch Plan Submissions.** An applicant shall submit:

- a. One original and six copies of a sketch of the proposed subdivision;
- b. A brief project description that generally addresses applicable sections under **Subsection 6.2.H** (Subdivision General Standards);
- c. A description of any proposed modifications or waivers under applicable standards;
- d. A list of abutting property owners;
- e. Application fees; and
- f. An electronic submission of all of these materials.

3. **Sketch Plan Meetings.** The ZA shall schedule time at the next available regular meeting of the DRB to consider the sketch plan, and will notify the applicant and adjoining property owners in writing of the date and time of the meeting.

- a. The applicant, or his or her duly authorized representative, shall attend the sketch plan meeting to present and discuss the proposed plan with the DRB.

- b. The DRB may request additional meetings with the applicant as needed to fully review the sketch plan, which may include a site visit with the applicant to examine the land proposed for subdivision.
4. **Sketch Plan Letter.** Within 15 days of the date of the final sketch plan meeting, the DRB shall issue a sketch plan letter that, based on available information:
- a. Indicates whether the subdivision as proposed would be reviewed as a minor or major subdivision, or planned unit development, and outlines the associated review process.
  - b. Indicates whether the proposed subdivision generally conforms to these regulations, or will require modifications to conform to the regulations.
  - c. Identifies specific areas of concern to be addressed in subdivision application, including potential impacts to adjoining property owners, significant natural or scenic resources, municipal roads and infrastructure, and community facilities and services.
  - d. Recommends additional information, studies or supporting documentation to be submitted with the application for subdivision review.
5. **Effect of Sketch Plan Review.** Sketch plan review is intended to provide guidance to the applicant on a proposed subdivision, based on preliminary information submitted by the applicant. As such, the sketch plan review process and letter do not bind the municipality or the applicant, and are not subject to appeal under **Section 6.9**. Sketch plan letter recommendations remain in effect for one year from the date of issuance. If an application is not filed within the year, another sketch plan review shall be required.

J. **Preliminary & Final Subdivision Application Requirements.**

- 1. Application Requirements. Applications for preliminary and final subdivision review shall be submitted to the ZA on forms provided by the City, as specified for each step of the subdivision review process.
  - a. Applications shall include required fees, information specified in application checklists and ZA correspondence, and any written requests to waive or modify specific subdivision review standards under **Section 6.8** of these regulations.

- b. The ZA shall refer complete applications to the DRB and, for preliminary subdivision review or for final subdivision review if no preliminary subdivision review will be required, copies of application information and public hearing notices to the following for review and comment:
  - i. City departments, including but not necessarily limited to the Public Works Community Services, and Police and Fire Departments.
  - ii. The clerk of the adjoining municipality for a subdivision located within 500 feet of a municipal boundary.
  - iii. The Vermont Agency of Transportation for a subdivision located on or accessed from a state highway.
  - iv. The Vermont Agency of Transportation for any requested reductions in front setback requirements from state highway rights-of-way.
  - v. The State National Flood Insurance (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Program, for subdivisions in the Flood Hazard Area District.
- c. No municipal approval for a subdivision shall be issued until written comments have been received or thirty days have elapsed from the date of referral. The failure of the ZA to notify the above listed parties shall not constitute grounds for appeal.
- d. The DRB, at any time during the hearing process, may require the applicant or other interested persons to submit additional information, or an independent technical review to be paid for by the applicant or other interested person, as needed to determine project conformance with the standards of these regulations.

**K. Preliminary Subdivision Review.**

1. **Purpose.** The purpose of preliminary subdivision review is to review a draft subdivision plat and supporting documentation in order to determine preliminary conformance with the municipal plan, these regulations and other municipal ordinances in effect at the time of application; to identify particular issues or concerns associated with a proposed subdivision; to recommend modifications necessary to achieve conformance; and to identify any additional information required for submission for final subdivision review prior to the preparation of a final survey plat, engineering plans and legal documents for the subdivision and related site improvements.

2. **Waiver.** The DRB may waive preliminary subdivision review for any subdivision, including Planned Unit Developments, as recommended under sketch plan review to expedite the hearing process for well planned subdivisions with a combined preliminary and final subdivision review hearing.
3. **Application.** The applicant shall submit one original and six 11" x 17" copies of the draft subdivision plat, required fees, engineering drawings, draft legal documents, and any other required information or supporting documentation identified from application checklists, or as specified by the ZA.
4. **Hearing.** Within 30 days of receipt of a complete preliminary application, the ZA shall schedule a public hearing at its next available meeting, to be warned in accordance with the Act [§ 4464]. The DRB may recess and continue the hearing to a date and time specified, to conduct site visits or to allow for the submission of additional information from the applicant or other interested persons. No additional information or comments will be taken following hearing adjournment.
5. **Decision.** The DRB shall issue written findings and a decision to approve, approve with conditions, or deny the application for preliminary subdivision approval within 45 days of the date of hearing adjournment, in accordance with the Act [§ 4464]. Failure to act within this 45 day period, as decided on appeal, shall be deemed to be approval on the 46th day. The DRB may specify as conditions of preliminary subdivision approval:
  - a. Modifications or changes to the preliminary plat or supporting documentation necessary to achieve compliance with the standards of these regulations.
  - b. Documentation to be submitted with the application for final subdivision review that all other required municipal and state approvals have been obtained.
  - c. Infrastructure improvements and associated easements or other dedications as required to serve the proposed subdivision, or to mitigate off-site impacts resulting from the proposed subdivision, to be installed or paid for by the applicant.

- d. The submission of additional supporting information including, but not limited to impact studies, legal documents, development agreements, performance bonds or other sureties, for consideration under final subdivision review.
6. **Appeal.** The applicant or another interested person must file any request for reconsideration by the DRB, or an appeal of the DRB decision to the Environmental Division of Superior Court, within 30 days of the date of issuance in accordance with Section 6.9.B.
  7. **Effect.** Preliminary subdivision approval is intended to document application and submission requirements for final subdivision review. It does not constitute approval of a subdivision plat for recording in the land records of the City under Section 6.2.M. A preliminary approval shall remain in effect for one year from the date of issuance.
- L. **Final Subdivision Review.**
1. **Purpose.** Final subdivision review and approval is required prior to recording a subdivision plat in the land records of the city. The purpose of final subdivision review is to determine final project conformance with the municipal plan, these regulations, and other municipal ordinances in effect at the time of application.
  2. **Application.**
    - a. The application for final subdivision review shall be submitted within one year of the date of preliminary approval by the DRB, but not before the initial 30-day appeal period has expired. If an application has not been filed within one year, the applicant will be required to submit a new application for preliminary review under Section 6.2.J.
    - b. The applicant shall submit required fees and one original and six copies of the information specified for final plans and plats, including 11" x 17" copies of the final subdivision plat, engineering drawings and other supporting information and documentation as specified in application checklists and the conditions of preliminary subdivision approval.
  3. **Hearing.** Within 30 days of receipt of a complete application, the ZA shall schedule a public hearing at the next available DRB meeting to be warned in accordance with the Act [§ 4464]. The DRB may recess and continue the hearing to a date and time specified to conduct site visits or to allow for the

submission of additional information from the applicant or other interested persons. No additional information or comment will be taken following hearing adjournment.

4. **Decision.** The DRB shall issue written findings and a decision to approve, approve with conditions, or deny the application for final subdivision approval within 45 days of the date of hearing adjournment, in accordance with the Act [§ 4464]. Failure to act within this 45 day period, as decided on appeal, shall be deemed to be approval on the 46th day. The DRB may require as conditions of approval:
  - a. Measures necessary to mitigate adverse impacts of the subdivision under the standards of these regulations.
  - b. Subdivision phasing as required to avoid overburdening the available capacity of existing or planned public facilities and infrastructure, in conformance with specific municipal plan policies and adopted capital or transportation improvement programs, and that additional subdivision plans and plats be filed for each phase of development.
  - c. Infrastructure improvements and associated easements or other dedications as required to support the proposed subdivision, or to mitigate off-site impacts resulting from the proposed subdivision, to be installed or paid for by the applicant.
  - d. Compliance with the Winooski Public Works Specifications for any infrastructure intended to be dedicated to the City for public ownership.

Approved by decision of the Development Review Board, City of Winooski, Vermont, issued on the \_\_\_\_ day of (month), (year), subject to all requirements and conditions of subdivision and plat approval. Signed this \_\_\_\_ day of (month), (year), by \_\_\_\_\_, Chairperson.

5. **Appeal.** The applicant or another interested person must file a request for reconsideration by the DRB, or an appeal of a DRB decision to the Environmental Division of Superior Court, within 30 days of the date of issuance in accordance with Section 6.9.B.
6. **Effect.** No subdivision plat shall be recorded in the land records of the City until final subdivision approval has been issued by the DRB and recorded in the land records of the City under Section 6.2.L. Final subdivision approval

shall not be construed to constitute acceptance by the City of Winooski of any street, easement, utility, park, recreation area, or other open space shown on the final plat. A formal resolution of the Winooski City Council is required for municipal acceptance of dedications by the applicant, in conformance with adopted city policies, ordinances and state law. Roads shown on an approved plat shall be considered private roads until such time as they may be formally accepted by the Winooski City Council. Final subdivision approval by the DRB shall remain in effect and run with the land, and legally recorded subdivision plats, as approved by the DRB, shall not expire once the plat is recorded as described in Section 6.2.M. For purposes of these regulations, any lot approved by the DRB as part of a planned unit development under Article IX is considered a conforming lot.

#### **M. Plat Recording Requirements**

1. Within 180 days of the date of final subdivision approval by the DRB, or by the courts on appeal, the applicant shall file a Mylar of the approved plat, as signed by the surveyor and the Chair or other appointed agent of the DRB, in the land records of the City in accordance with the Act [§ 4463(b)] and state plat filing requirements (27 V.S.A. Chapter 17). The applicant shall also submit one paper and one digital copy of the plat, in a format specified by the City, to the ZA.
2. All subdivision and recording fees must be paid in full prior to recording a subdivision plat.
3. The plat to be recorded shall:
  - a. Measure a minimum of 18" x 24" or multiple thereof,
  - b. Have margins outside border lines of 1.5" on the left for binding, and 0.5" on all other sides.
  - c. Be certified and signed by the surveyor.
  - d. Carry the following endorsement, to be signed by the Chair or other authorized representative of the DRB:
4. The subdivision plan (site plan) as approved by the DRB shall also be submitted on Mylar with the subdivision plat, for recording in the land records of the City.

5. An approved subdivision plat that is not recorded within the 180-day period shall expire, and reapplication shall be required. A recorded plat shall not expire, and may be modified only in conformance with Sections 6.2 and 6.4

## Section 6.3 - Planned Unit Development Standards

A. **Purpose:** The purposes of Planned Unit Developments are:

1. To provide a method of development for existing parcels which because of physical, topographical, or geographical conditions could not otherwise be developed in strict conformance with the dimensional requirements to the fullest extent.
2. To encourage infill appropriate to the particular character of the site and its surroundings, compact, pedestrian-oriented development and redevelopment, and to promote a mix of residential uses and/or nonresidential uses as permitted or conditional in the Zoning Districts.
3. To provide for flexibility in site and lot layout, building design, placement and clustering of buildings, use of open areas, provision of circulation facilities, including pedestrian and bicycle facilities and parking, and related site and design considerations that will best achieve the goals for the area as articulated in the municipal plan and bylaws within the particular character of the site and its surroundings.

To achieve these objectives, the DRB (DRB) may modify the dimensional requirements, with the exception of density, lot coverage and height, of applicable zoning provisions in accordance with these regulations.

B. **Authority and Applicability:** These regulations are enacted under the provisions of 24 V.S.A. Section 4417. PUDs are allowed in all Zoning Districts except the Gateway Districts and the Downtown Core. To encourage integrated master planning, a PUD may include multiple adjoining properties in common ownership, or in separate ownership if a joint application by all property owners is submitted. PUDs may involve the creation of separate building lots and/or development in which multiple buildings or uses are located on a single parcel in common ownership. Ownership within a PUD can be conveyed or leased along building lines. In addition, PUDs may be configured as FOOTPRINT LOTS. Such transfers will not violate lot coverage, minimum lot area, frontage or setback requirements. For the purposes of a PUD, lot is defined as a parcel of land dedicated to the entire PUD, and not any subdivision or leasing of land and/or building within the PUD. With the approval of the DRB, the lot size, frontage, and setback dimensional requirements, excluding the density and lot coverage, may be altered for a planned unit development. More than one principal use and more than one principal structure may be permitted on a single lot.

C. **Review Process:** Review of a request for PUD Approval shall be considered to also be a request for Site Plan Approval, Subdivision Approval (if applicable), and as Conditional Use Approval (if applicable) so that, if granted, PUD Approval shall constitute Site Plan Approval, Subdivision Approval, and Conditional Use Approval for any use or structure governed by that PUD Approval. A decision by the DRB to grant or not grant a PUD Approval may be appealed pursuant to **Section 6.9.B**. In addition, approved modifications and other conditions of approval shall be specifically identified in the written decision granting subdivision and planned development approval and noted on or appended to the survey plat and recorded in the land records.

D. **Application Requirements:** A person requesting a PUD Approval shall submit a complete application to the ZA on a form specified by the City. The application shall include:

1. Six (6) sets of a Site Plan of the proposed development, as well as one (1) copy of the Site Plan of the proposed development in digital electronic format acceptable to the ZA, that includes or depicts in sufficient detail, drawn to scale, and with sufficient legibility the following:
  - a. The scale used;
  - b. Natural and proposed grade elevations on contour intervals of not less than 2'-0";
  - c. Existing and proposed drainage devices and patterns;
  - d. Existing and proposed water and wastewater infrastructure;
  - e. Existing and proposed landscaping elements (including trees, fences and walls);
  - f. Proposed, existing and adjoining streets, driveways, parking and loading spaces, traffic circulation spaces;
  - g. Existing and proposed structures and areas dedicated to existing and proposed uses;
  - h. Existing and proposed easements, building lines/footprints/envelopes, yards and other spaces required by this Ordinance;
  - i. Existing and proposed exterior lighting;
  - j. Existing and proposed signs, including dimensions and locations;

2. Survey prepared by a licensed surveyor including the location of existing and proposed lot lines, if the PUD involves a subdivision of lots, or adjustment of lot lines;
3. elevations and a description of the materials proposed to be used on the façade of each proposed building;
4. a statement setting forth the nature of all requested waivers to the lot size, frontage, and setback dimensional requirements of the zoning district in which the project is located. This statement must include the reasons why such modifications or changes are necessary in order to implement the PUD purposes as listed in **Section 6.3.A.**;
5. Management plans for any natural areas or open space to be conserved, and for all common areas, facilities and services within the PUD, to include a description of ownership, use, and long-term maintenance or management, and associated legal agreements, easements or covenants; and
6. Density calculations used to determine the overall density of development within the PUD, in accordance with the following:
  - a. The maximum number of building units or lots within a PUD shall not exceed the number which could be developed on a parcel based on total parcel acreage, lot size and lot coverage density requirements for the zoning district(s) in which the PUD is located.
  - b. This calculation of the site's overall "yield" shall be used to determine the number of building units or lots that may be clustered or grouped at higher densities on those portions of the parcel that are suitable for development.
  - c. For PUDs within two or more zoning districts, the allowed overall density of development shall be the sum of the allowed density calculated for each area of the PUD within a particular zoning district, using the dimensional standards for that district; however building lots or units may be transferred from that portion of the parcel within the lower density zoning district(s) to developable areas of the parcel within the higher density zoning district(s).
  - d. For PUDs on two or more adjoining parcels, the allowed overall density shall be calculated as the sum of the allowed density for each lot, however building lots or units may be transferred from one parcel to developable areas on another parcel.

E. **Standards:** The following requirements shall be met for the DRB to approve a PUD:

1. The proposed PUD shall include only those uses Permitted by right or a Conditional Use in the district in which the proposed use would be located.
2. The proposed PUD shall be consistent with the goals and policies of the Winooski Municipal Development Plan currently in effect, the purpose of the zoning district(s) in which it is located, and all applicable regulations not modified through PUD review and approval.
3. The proposed PUD shall comply with the Site Plan standards of **Section 6.6**, the Conditional Use standards of **Section 6.7** if applicable, and the Subdivision standards of **Section 6.2.H** if applicable.
4. The proposed PUD shall present an environmentally sensitive, effective and unified treatment of the site(s), that:
  - a. locates development on the most developable portions of the site(s), and excludes from development environmentally sensitive areas in accordance with **Section 4.8** of these regulations, and preserves, to the extent feasible, natural and scenic qualities of open space, and the historical quality of existing buildings (in accordance with **Section 4.4.E** of these regulations);
  - b. is compatible with planned patterns and densities of development for the zoning district(s) in which it is located, including building type, site layout, and pedestrian-scale and orientation while minimizing site disturbance and infrastructure development costs as best as possible;
  - c. provides the minimum rear setback required for the zoning district in which the PUD is located along the periphery of the project, and landscaping within the setbacks to maintain district character and to minimize adverse physical or visual impacts from adjoining properties and uses; and
  - d. integrates vehicular, bicyclist and pedestrian circulation with neighboring properties and public rights-of-way, and incorporates adequate parking and access in accordance with **Sections 4.2 and 4.12** of these regulations.
5. The proposed PUD shall provide such public and nonpublic improvements as may be determined by the Board to conform with the Winooski Municipal Development Plan.

6. If needed, the proposed PUD shall specify reasonable periods within which development of each phase of the PUD may be started and shall be completed.
7. If waivers are needed and requested by the Applicant, grant one or more waivers of the lot size, frontage, and setback dimensional requirements, otherwise applicable under this Ordinance, if the nature of all requested waivers is necessary in order to implement the PUD purposes as listed in **Section 6.3.A**.
8. If public infrastructure is proposed, require as a condition of PUD Approval that the applicant furnish to the City security to assure the proper development of the PUD according to the standards, conditions, and restrictions specified by the DRB.

#### **Section 6.4 - Revisions To Existing Lot Lines**

A. Modifications or revisions to an approved subdivision plan, plat or the conditions of subdivision approval require a subdivision amendment approved by the ZA or DRB. Any modifications or revisions made to an approved plat without such approval shall be considered null and void, and subject to municipal enforcement as a violation under **Article VII**.

B. Modifications or revisions to existing lot lines legally in existence as of the effective date of these regulations require approval by the ZA or DRB. Any modifications or revisions made to an approved plat without such approval shall be considered null and void, and subject to municipal enforcement as a violation under Article VII.

C. Administrative Amendments.

1. The following are eligible for review and administrative approval by the ZA, unless the ZA determines that the request may not meet these criteria and should instead be referred to the DRB for review under Subsection C.
  - a. Boundary (lot line) adjustments between two or more adjoining parcels that do not result in the creation of new or nonconforming lots and do not materially or substantially alter the findings and conditions of a previous subdivision approval. The adjustments must be prepared and surveyed by a licensed surveyor.
  - b. Merging of two or more lots into one that does not result in the creation of nonconforming lots and do not materially or substantially alter the findings

and conditions of a previous subdivision approval. The adjustments must be prepared and surveyed by a licensed surveyor.

- c. The relocation, modification or expansion of building footprints, parking areas and site improvements within approved building envelopes, as long as such relocations, modifications or expansions comply with the conditions of subdivision approval and other applicable requirements of these regulations.
  - d. The relocation or modification of roadways, utilities and related improvements within approved rights-of-way or utility corridors that otherwise comply with the findings and conditions of subdivision approval and other applicable requirements of these regulations.
  - e. Approval of as-built plans that deviate from approved plans to the extent that such deviations do not substantially or materially alter the findings and conditions of subdivision approval.
  - f. Modifications to approved landscaping and screening requirements to allow for the substitution of materials, provided the substitutions meet the conditions of subdivision approval.
  - g. Modifications specifically authorized for administrative review and approval by the DRB in its written decision and conditions of final subdivision approval.
2. The ZA shall issue, post and record administrative amendments in the same manner that zoning permits are issued under **Section 6.10**, mail a copy of the amendment to all adjoining record and interested parties to the original subdivision proceedings, and forward a copy to the DRB. An administrative subdivision amendment may be appealed within 15 days of the date of issuance to the DRB under **Section 6.9.A**.
- D. All other subdivision amendment applications shall be classified by the ZA under **Section 6.2**, and referred to the DRB for review.

## Section 6.5 - Site Plans, Conditional Use & Variances

A. Development review procedures and related standards under this section apply only to development applications that must be reviewed and approved by the DRB, following a public hearing, before a zoning permit can be issued by the ZA. For land

subdivision review procedures, see Part 1 of this Article. Development review procedures under this article include:

1. **Site Plan Review.** See Section 6.6.
2. **Conditional Use Review.** See Section 6.7.
3. **Waivers and Variances.** See Section 6.8.

**B. Coordination of Review.** If land subdivision is also proposed, final subdivision approval is required prior to site plan or conditional use review for the development of a subdivided lot; however site plan or conditional use review may be conducted concurrently with final subdivision review under Article VII as long as the application, notice, procedural requirements and review standards for each are met. Flood hazard area review under Article VI also may be conducted concurrently with site plan or conditional use review under this article.

1. For the review of development on a lot that has received prior subdivision approval, the DRB shall consider and incorporate all conditions of subdivision approval applicable to that lot. In the event that a condition of site plan, conditional use or flood hazard area approval is inconsistent with the conditions of subdivision approval, the more restrictive shall apply.

**C. Application Requirements.** Applications for site plan or conditional use review shall be submitted to the ZA on forms provided by the City.

1. Applications shall also include:
  - a. All required fees;
  - b. One original and six 11" x 17" copies of a site development plan;
  - c. Letter of Intent from the Agency of Transportation for access from State Highways;
  - d. Draft legal documents as applicable;
  - e. Other required information or supporting documentation identified from application checklists, or as specified by the ZA; and
  - f. Any written requests to waive or modify specific development review standards under Articles II and IV.

2. The ZA shall refer complete applications to the DRB and copies of application information and public hearing notices to the following for review and comment as appropriate:
  - a. Community officials, including the Police, Fire & Rescue, Code Enforcement, Public Works (highway access, water, sewer, stormwater, etc), Community Service Departments, and the School Superintendent for development that requires or may adversely affect community facilities and services.
  - b. The State National Flood Insurance (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Program, for development within the Flood Hazard District (see **Appendix A**).
3. The applicant is encouraged to contact the above listed officials prior to submitting an application for development review to the DRB, and to incorporate their recommendations in site layout and project design.
4. No DRB approval shall be issued until written comments have been received or thirty days have elapsed from the date of referral. The failure of the ZA to notify the above listed parties shall not constitute grounds for appeal.

**D. Hearing.** Within 30 days of receipt of a substantially complete application, the ZA shall schedule a public hearing on the application at the next available DRB meeting to be warned in accordance with the Act [§ 4464].

1. If the hearing includes a variance request on appeal to the DRB, it must be held within 60 days of the date of the filing of a notice of appeal.
2. The DRB may waive one or more required application materials if it determines that such information is unnecessary to make findings under applicable criteria of these regulations. The DRB also may request additional information, including independent technical analyses, as needed to determine conformance with these regulations. An application will not be considered complete by the DRB until all necessary materials have been submitted.
3. The Board may recess and continue the hearing to a date and time specified, as necessary to conduct site visits or to allow for the submission of additional

information from the applicant or other interested persons. No additional information or comments shall be taken following hearing adjournment.

E. **Decision.** Within 45 days of the date of hearing adjournment, the DRB shall issue written findings and a decision to approve, approve with conditions, or deny the application. Failure to act within this 45-day period, as decided on appeal, shall be deemed to be approval on the 46th day. The DRB may specify as conditions of approval:

- a. Modifications or changes to the proposed site layout and project design.
- b. The submission of supporting documentation necessary to achieve or monitor compliance with the standards of these regulations and conditions of approval.
- c. Documentation to be submitted with the application for a certificate of occupancy that all other required municipal and state approvals have been obtained.
- d. Infrastructure improvements and associated easements or other dedications as required to serve the proposed development, or to mitigate off-site impacts resulting from the proposed development, to be installed or paid for by the applicant.
- e. The submission of a development agreement, performance bond or other surety acceptable to the Winooski City Council.

F. **Appeal.** The applicant or another interested person who participated in the hearing process may either request that the DRB reconsider a decision, or file an appeal of the DRB decision to the Environmental Division of Superior Court, within 30 days of the date of issuance, in accordance with Section 6.9.B. In accordance with the Act [§ 4470], the DRB may reject a request for reconsideration without hearing and render a decision, including findings of fact, within 10 days of the date of filing if it considers the issues raised in the request have been decided in an earlier appeal or involve substantially or materially the same facts as presented by or on behalf of the appellant.

G. **Effect.** Site plan and conditional use approval by the DRB shall expire with the expiration of the zoning permit, and may be extended only in accordance with Section 6.11.A.2, or as provided for abandoned structures under Section 4.1. Once approved uses or structures are established, site plan and conditional use approvals shall remain in effect and run with the land.

## Section 6.6 - Site Plan Review

A. **Intent.** Site plan review is intended to ensure that site layout and development design are functional, safe, attractive, and consistent with the purpose and character of the district(s) in which the development is located. Standards specifically relate to the internal layout of the site, its physical design, and the functional and visual integration of the site with adjoining properties, uses and infrastructure.

B. **Applicability.** Site plan review is required for all “permitted uses” listed by zoning district under Article II, except for single (one) and two family dwellings, associated accessory structures and accessory dwellings as specified under [Section 5.1](#), home occupations and home child care facilities as specified under [Sections 5.2 and 5.7](#), signs if not associated with a development proposal, and other uses specifically exempted from these regulations under [Section 6.13](#). Uses listed as “conditional uses” under [Article II](#) do not require separate site plan review and approval, but must meet applicable site plan review standards under [Section 6.6](#).

C. **Standards.** The DRB may consider and impose appropriate safeguards, modifications and conditions relating to the following standards:

1. Existing Site Features. Site layout and design, to the extent physically feasible, shall incorporate and avoid undue adverse impacts to significant natural, historic and scenic resources identified from the Winooski Municipal Development Plan, maps and related inventories, or through site investigation in accordance with [Section 4.8](#), and the Historic Structure Section of Design Review in [Section 4.4.D](#). and other relevant sections of these regulations. The DRB may require one or more of the following measures as necessary to avoid or mitigate adverse impacts to natural, scenic and historic resources in the vicinity of the proposed development:
  - i. Increased setback distances or undisturbed buffer areas between proposed development and identified resources.
  - ii. The designation of building envelopes sited to exclude identified resource areas, and to limit the extent of site clearing and disturbance.
  - iii. Permanent protection of identified resource areas as designated open space.

- iv. The screening of development as viewed from public vantage points and for privacy from neighbors.
- v. The preparation and implementation of management plans for identified resources.

2. **Site Layout & Design.** The location and orientation of structures, and supporting infrastructure on the site shall be compatible with their proposed setting and context, as determined from specific policies of the Winooski Municipal Development Plan, zoning district objectives, existing site conditions and features, adjoining or facing structures in the vicinity, and other applicable provisions of these regulations, including density, setback, height and buffering requirements. To ensure that development is designed in a manner that is consistent with the existing and desired character of the district within which it is located, the following general standards shall apply as specified for particular district:

- a. **Residential Zoning Districts.** Subdivision within this district shall be designed and configured to reinforce a compact residential, pedestrian scale and pattern of development. Lots and building envelopes shall be sized and located to maintain a consistent building line and streetscape along roads, and to maintain privacy in the rear. Subdivisions in this district also shall be designed to incorporate, extend, or connect to existing roads, sidewalks and utility corridors. Sidewalks and other pedestrian facilities shall be provided where physically feasible; new roads in these districts shall be designed to maximize pedestrian and bicycle safety and circulation.
- b. **Commercial Zoning Districts.** Subdivision within this district shall be designed and configured to reinforce a compact, multistory commercial, residential and/or mixed use, pedestrian scale and pattern of development. Lots and building envelopes shall be sized and located to place buildings at the sidewalk with entrances and windows across the façade. Lots adjacent to residential zoning districts shall maintain a buffer to ease the transition from high intensity commercial districts to the residential districts. Subdivisions in this district also shall be designed to incorporate, extend, or connect to existing roads, sidewalks and utility corridors. Sidewalks, pedestrian and bike facilities shall be provided where physically feasible; and new roads in these districts shall be designed to maximize pedestrian and bicycle safety and circulation. Parking shall be placed behind buildings to the extent possible. Parking shall be placed either behind, within, or to the side of structures. Any

development within the Downtown Core district is subject to the Master Plan as described in **Article II**.

- c. **Industrial Zoning Districts.** Subdivisions within the Industrial Districts shall be designed and configured to avoid undue adverse impacts to existing natural resources. Lots adjacent to residential zoning districts shall maintain a buffer to ease the transition from industrial uses to residential uses. Subdivisions in this district also shall be designed to incorporate, extend, or connect to existing roads, sidewalks and utility corridors. Sidewalks, pedestrian facilities, bike facilities shall be provided where physically feasible; and new roads in these districts shall be designed to maximize pedestrian and bicycle safety and circulation. Parking shall be placed behind buildings to the extent possible.
3. **Vehicle Access.** Vehicular access, including road intersections, shall meet applicable City and state access management and design standards, including those set forth in Section **4.2**. Curb cuts and road intersections shall not create hazards to vehicles, pedestrians or bicyclists on site or on adjoining roads, sidewalks and pathways. To ensure safety and manage access in a manner that maintains road capacity the DRB, in consultation with the City or state highway officials may:
  - a. Limit the number and size of curb cuts in accordance with Section **4.2**.
  - b. Require the reduction, consolidation or elimination of noncomplying curb cuts.
  - c. For parcels having direct access to more than one road, limit access to a side street or secondary (less traveled) road.
  - d. Require shared access between adjoining properties with compatible uses, to be installed immediately if similar provision has been made on a contiguous parcel, or to be contingent upon the development or redevelopment of a contiguous parcel(s).
  - e. Require access and driveway redesign as necessary to allow for emergency vehicle access.
4. **Parking, Loading & Service Areas.** On-site parking, loading and service areas shall be provided in accordance with the requirements of **Section 4.12**, and the following, with particular attention given to pedestrian and vehicular safety:

- a. Parking areas shall be located to the rear or side of the principal building(s), unless otherwise permitted by the DRB due to site constraints that would prevent reasonable use of the property or result in unsafe traffic conditions.
  - b. Parking areas shall be landscaped to avoid large, uninterrupted paved areas in accordance with **Section 4.12**, and screened to minimize their visibility from public rights-of-way and neighboring properties.
  - c. Shared parking and/or driveway connections to parking areas on adjacent properties with compatible uses, or provisions for future shared parking or driveway connections to adjoining parcels contingent upon their development or redevelopment, shall be required where physically feasible. In the event that such connections allow for shared parking between properties, overall parking requirements may be reduced pursuant to **Section 4.12**.
  - d. Loading and service areas shall be provided onsite in accordance with **Section 4.12**, and shall be adequate to meet the anticipated needs of the use in a manner that does not interfere with parking, internal circulation, and landscaping. Such areas shall be located, landscaped, and/or screened to minimize their visibility from public rights-of-way and neighboring properties.
  - e. The outdoor storage or display of goods, supplies, vehicles, equipment, machinery or other materials is prohibited unless specifically approved by the DRB within a designated area, or as otherwise allowed for a specific use. Secured, covered and screened areas shall be provided for the collection and on-site storage of trash and recyclables generated by the proposed development.
5. **Site Circulation.** Provision shall be made for adequate and safe onsite vehicular and pedestrian circulation, with consideration given to the intended use of the property, the location of accesses, buildings, parking areas, and existing facilities onsite and on adjoining properties in accordance with **Sections 4.2 and 4.12**.
- a. The site plan shall include clearly marked travel lanes, pedestrian crossings, and pedestrian paths or sidewalks that connect buildings, parking areas, and adjoining properties, unless it is determined by the

DRB that such facilities are unnecessary to ensure vehicular and pedestrian safety and convenience.

- b. The site plan shall incorporate sidewalks, recreation paths, proposed rights-of-way and related infrastructure improvements identified in duly adopted municipal improvement plans (e.g., sidewalk or streetscape plans), capital budgets or programs.
6. **Outdoor Lighting.** Outdoor lighting installations shall meet the requirements of [Section 4.10](#). The DRB may require the submission of an outdoor lighting plan, prepared by a qualified engineer or lighting expert, for projects determined by the DRB to pose a potential for significant off-site lighting impact due to the number, location and/or intensity of proposed lighting fixtures.
7. **Stormwater Management and Erosion Control.** Temporary and permanent stormwater management and erosion control measures shall be used during all phases of development as necessary to minimize surface runoff and erosion, protect water quality, and to avoid damage to downstream properties and infrastructure in conformance with [Section 4.15](#).
8. **Landscaping and Screening.** Landscaping and screening shall be provided in accordance with [Section 4.7](#).

## Section 6.7 - Conditional Use Review

A. **Purpose.** These conditional use regulations are enacted to provide for a more detailed consideration of development proposals which may present a greater impact on the community. Typically, land uses are subject to conditional use review because their scale, intensity and potential for off-site impacts warrant more careful scrutiny by the DRB. Standards and conditions relate to the identification, avoidance and/or mitigation of potential impacts.

B. **Applicability.** Conditional Use review is required for the approval of all development identified as "Conditional Use" or "CU" in the Use Table in [Section 2.4](#), any particular circumstances listed under [Article IV](#) that elevates a development proposal to a Conditional Use review status, and any Special Use identified as needing Conditional Use review in [Article V](#).

C. **General Standards.** Conditional use approval shall be granted by the DRB only upon finding that the proposed development shall not result in an undue adverse effect on any of the following:

1. The capacity of existing or planned community services or facilities. The applicant and DRB shall consider the demand for community services and facilities resulting from the proposed development in relation to the available capacity of existing and planned community services and facilities. Community facilities and services that may serve a proposed development include schools, emergency services, municipal water supply and wastewater treatment, public parks and trail networks, and public utilities as identified from the Winooski Municipal Development Plan, an adopted municipal capital improvement program, or through site investigation.
  - a. Available capacity shall be determined through consultation with municipal and state officials having jurisdiction over affected services and facilities, and consideration of any duly adopted municipal capital budget and program in effect.
  - b. Conditions will be imposed as necessary to ensure that the demand for community facilities or services does not exceed available capacity. Such conditions may include the phasing of development, the installation of facilities or improvements by the developer as required to serve the proposed development, and the submission of a development agreement, performance bond, or other surety, as approved by the City Council, for the installation of such facilities or improvements.
2. **The character of the area affected.** The applicant and DRB shall consider the location, scale, type, density and intensity of the proposed development in relation to the character of the area affected, as defined by zoning district purpose statements and specifically stated and relevant policies and standards of the Winooski Municipal Development Plan.
  - a. Mitigation measures shall be employed by the applicant as necessary to avoid undue adverse impacts to the character of the area. These measures may include site plan or building design modifications; increased setback distances, buffers, or screening; the designation of building envelopes to minimize impacts to significant natural, historic or scenic resources or other measures acceptable to the DRB.
3. Traffic on roads and highways in the vicinity evaluated in terms of increased demand for parking, travel during peak commuter hours, safety, contributing

to congestion, as opposed to complementing the flow of traffic and/or parking needs.

- a. Conditions shall be imposed as necessary to mitigate undue adverse impacts to existing and planned road and intersection improvements, levels of service (LOS) and volume-to-capacity (v/c) ratios. Rather than focusing on incremental and often inconsequential changes between different levels of service, the v/c measure provides information on whether capacity of an intersection is being fully utilized and recognizes that areas intended for additional development will have an impact on traffic congestion that cannot be wholly avoided, nor should it be for a thriving urban environment. In addition, LOS measures quality of service of a transportation facility from a driver's perspective based on how quickly vehicles can move through an intersection, and this is not necessarily the best measure for safety and adequacy of roadways for bicyclists and pedestrians. Such conditions may include the phasing of development in relation to planned highway improvements, traffic management strategies including transportation demand management strategies, or physical improvements to the road network required to serve the proposed development, to be paid for and installed by the applicant, and the submission of a development agreement, performance bond, or other surety as approved by the City Council, for the installation of such improvements.

4. **Bylaws in effect.** The applicant and DRB shall consider whether the proposed development complies with all municipal bylaws and ordinances in effect at the time of application, including other applicable provisions of these regulations and the Municipal Development Plan. No development shall be approved in violation of existing municipal bylaws and ordinances.

- a. Conditions may be imposed by the DRB as necessary to ensure compliance with municipal bylaws and ordinances. Certificates of occupancy for an approved project shall not be issued until all required municipal, state and federal permits have been obtained.

5. **The utilization of renewable energy resources.** The proposed development shall not interfere with the sustainable use of renewable energy resources, including access to, or the direct use or future availability of such resources.
  - a. Conditions may be imposed as necessary to ensure long-term access, use, and availability of such resources onsite or on adjoining properties.

C. **Specific Standards.** The DRB also may consider the following standards and impose conditions as necessary to reduce or mitigate any identified adverse impacts of a proposed development:

1. **Performance Standards.** The proposed use shall comply with all performance standards set forth in **Section 4.13**. In determining compliance, the DRB may consult with state officials and consider accepted industry standards. To ensure compliance, the DRB may include as conditions of approval:

- a. Require documentation that proposed uses, processes, or equipment will comply with applicable performance standards.
- b. Require increased setback distances and buffers from property lines.
- c. Reasonably limit hours of operation.

2. **Legal Documentation.** Legal documentation shall be provided as necessary to ensure that that all required improvements, rights-of-way and easements, and other common lands or facilities will be installed and adequately maintained either by the applicant, an owners association, or through other legal means acceptable to the DRB.

## Section 6.8 - Waivers & Variance Review

A. **Applications & Review Standards.** The DRB may waive application requirements, and site plan or conditional use review standards under **Sections 6.6 and 6.7**, that it determines are not relevant to a particular application.

B. **Dimensional Waivers.** The DRB, in association with site plan or conditional use review, or on appeal of a ZA's determination, may reduce minimum district setback requirements (under **Table 2.5**) or minimum surface water and wetland setbacks (under **Section 4.8**) in accordance with the Act [§ 4414] and the following requirements.

1. A waiver request, including information regarding the specific circumstances, need and justification for the waiver shall be submitted in writing with the application for site plan or conditional use review.
2. A waiver under this section may be granted by the DRB only as necessary to:

- a. Allow for the reasonable development and use of a pre-existing nonconforming lot under **Section 4.9**.
  - b. Allow for additions or improvements to a pre-existing nonconforming structure under **Section 4.9**.
  - c. Comply with federal or state public health, safety, access and disability standards.
  - d. Allow for the siting of renewable energy structures.
3. The minimum required setback distance shall be reduced by no more than 50% under this provision. Variance approval under **Section 6.8** shall be required for any further reduction in dimensional requirements.
  4. In granting a waiver under this section, the DRB shall find, based upon clear and convincing evidence of a specific need and circumstances that:
    - a. No reasonable alternative exists for siting the structure, addition or improvement outside of the required setback area.
    - b. The reduced setback is not contrary to public health, safety and welfare, stated objectives and policies of the Winooski Municipal Development Plan, or the intent of these regulations.
    - c. The waiver represents the minimum setback reduction necessary to allow for the proposed development.
    - d. Any potential adverse impacts resulting from reduced setbacks on adjoining properties, surface waters or wetlands shall be mitigated through site design, landscaping and screening, or other accepted mitigation measures.

C. **Variiances.** In accordance with the Act [§ 4469], a variance from the provisions of these regulations may be granted by the DRB for a structure only if literal enforcement of these regulations results in undue hardship to the appellant that precludes any reasonable use of the property.

1. The DRB shall hear and decide requests for variances in accordance with the appeal procedures under **Section 6.9**. Variance requests also may be

considered concurrently with site plan or conditional use review. The request for a variance shall include:

- a. Information required under **Section 6.9** and the Act [§ 4466] for a notice of appeal, including:
    - i. a copy of the application, or brief description of the property in question for which a variance is being requested,
    - ii. a reference to the regulatory provisions from which a variance is requested,
    - iii. a description of the relief requested, and
    - iv. the grounds why the requested relief is proper, under the circumstances.
  - b. Information necessary to make findings under each of the variance criteria specified below.
2. The DRB shall grant a variance, and render a decision in favor of the applicant or appellant, only if all of the following facts are found, and the findings are specified in its written decision:
- a. There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions and not the circumstances or conditions generally created by the provisions of these regulations in the neighborhood or district in which the property is located.
  - b. Because of such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these regulations and that the authorization of a variance is necessary to enable the reasonable use of the property.
  - c. The unnecessary hardship has not been created by the applicant or appellant.

- d. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.
  - e. The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.
3. Variances within the Flood Hazard Area District. In addition to requirements under **Section 6.8.C**, variances from flood hazard area development standards are also subject to requirements in Appendix A.

## Section 6.9 - Appeals

A. **Zoning Administrator Decisions.** An applicant or other "interested person" as defined under the Act [§ 4465] may appeal a decision or act of the ZA within 15 days of the date of the decision or act by filing a notice of appeal with the Clerk of the DRB, and by filing a copy of the notice with the ZA.

1. **Notice of Appeal.** A notice of appeal filed with the DRB under this section shall be in writing and include the following information:
  - a. the name and address of the appellant;
  - b. a brief description of the property with respect to which the appeal is taken;
  - c. a reference to applicable provisions of these regulations;
  - d. the relief requested by the appellant, including any request for a variance from one or more provisions of these regulations; and
  - e. the alleged grounds why such relief is believed proper under the circumstances.
2. **Variances.** A variance request under the Act [§ 4469] and **Section 6.8** may be considered on appeal, or concurrently with site plan or conditional use review, as long as the requirements of this section are met. Applicants or appellants shall submit information sufficient for the DRB to make required

findings under all variance criteria under **Section 6.8** and, for development within Special Flood Hazard Areas, also under Section **Appendix A**.

3. **Hearing.** The DRB shall hold a public hearing on a notice of appeal within 60 days of its filing. The DRB shall give public notice of the hearing under the Act [§ 4464], and shall mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.
4. In accordance with the Act [§ 4470], the DRB may reject an appeal without hearing, and render a written decision that includes findings of fact, within 10 days of the filing of the notice of appeal, if the DRB 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.
5. All appeal hearings shall be open to the public. Any interested person or body may appear and be heard in person or be represented by an agent or attorney at the hearing. The hearing may be adjourned and continued by the Board from time to time, provided that the date and place of the adjourned hearing shall be announced at the hearing.
6. A decision on appeal shall be rendered within 45 days after the adjournment of the hearing. The decision shall be sent by certified mail to the appellant within the 45-day period. 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 ZA and the City Clerk as part of the public records of the municipality, in accordance with the Act [§ 4464].
7. The City Council shall set the fee for appeals of ZA decisions. All costs incurred by the city in association with the appeal shall be borne by the appellant.

**B. DRB Decisions.** The applicant, appellant, or any other interested person who has participated in an appeal proceeding of the DRB under this section may appeal a decision rendered by the DRB, within 30 days of such decision, to the Environmental Division of Vermont Superior Court in accordance with the Act [§ 4471].

1. "Participation" in a board proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.

2. The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Court and by mailing a copy to the ZA who shall supply a list of interested persons (including the applicant if not the appellant) to the appellant within five business 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. If any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

C. **Reconsiderations.** A request for reconsideration of a DRB decision may be submitted to the DRB by an interested party within 30 days of the date of the decision. The request must include new information that the DRB had not previously considered. In accordance with the Act [§ 4470], the DRB may reject the request for reconsideration without hearing and render a decision, including findings of fact, within 10 days of the filing of the application if the DRB determines that the issues raised on appeal have been decided in an earlier appeal, or involve substantially or materially the same facts by or on behalf of the appellant.

## Section 6.10 - Zoning Permits

A. **Applicability.** No land development subject to these regulations shall commence in the City of Winooski until a zoning permit has been issued by the ZA, in accordance with the Act [§ 4449].

B. **Application Requirements.** The application for a zoning permit must be submitted to the ZA on forms provided by the city, along with any application fees as established by the Winooski City Council. In addition, the following will be required as applicable:

1. Applications for permitted uses shall include a statement describing the existing and intended use of the land and structures and/or any proposed structural changes, and be accompanied by a copy of a sketch plan, no smaller than 8.5" x 11", drawn to scale, that accurately depicts the following:
  - a. the dimensions of the lot, including existing and proposed property boundaries;
  - b. the location, footprint, and height of existing and proposed structures and additions;
  - c. the location and dimensions of existing and proposed accesses (curb cuts), driveways and parking areas;

- d. the location of existing and proposed easements, rights-of-way and utilities;
  - e. setbacks from property boundaries, road rights-of-way, surface waters, and wetlands;
  - f. the location of existing and proposed water and wastewater connections; and
  - g. such other information as may be needed to determine compliance with these regulations as specified by the ZA.
2. For development requiring one or more approvals from the DRB and/or City Council prior to the issuance of a zoning permit, application information and fees shall be submitted concurrently with the application for a zoning permit. The ZA shall refer the application to the appropriate board or municipal official following submission.
  3. Additional copies of applications for development within Special Flood Hazard Areas under Appendix A, as provided by the applicant, must be forwarded by the ZA to the State Floodplain Coordinator within 10 business days of receipt of the application. All other applications that require referral to a state agency shall be done by the applicant with evidence of that submission provided to the ZA prior to the issuance of any zoning permit.
  4. The ZA or DRB may reject an application that misrepresents any material fact, in accordance with the Act [§ 4470a].
- C. Issuance of Zoning Permits. A zoning permit shall be issued by the ZA only in accord with the following provisions:
1. No zoning permit shall be issued by the ZA for any use or structure that requires approval of the DRB until DRB approval has been obtained. DRB decisions, including approvals, may be appealed under **Section 6.9.B**; however, administrative zoning permits issued by the ZA for DRB-approved development cannot be separately appealed under **Section 6.9.B**.
  2. No zoning permit shall be issued by the ZA for the development of a lot for which subdivision approval is required until subdivision approval has been granted by the DRB.

3. For uses requiring state agency referral, no zoning permit shall be issued until a response has been received from the state, or the expiration of 30 days following the submission of the application to the state, whichever is sooner.
4. If public notice has been issued by the Winooski City Council for their first public hearing on a proposed amendment to these regulations, the ZA shall issue a zoning permit for development that is subject to the proposed amendment only in accordance with the requirements of the Act [§ 4449(d)].
5. Within 30 days of receipt of a complete application, including all application materials, fees and required approvals, the ZA shall act to either issue or deny a zoning permit in writing, or to refer the application to the DRB. If the ZA fails to act within the 30-day period, on appeal to the DRB a permit shall be deemed issued on the 31st day.
6. All zoning permits shall include a statement of time within which appeals may be taken under **Section 6.9.A**; and shall require the posting of a notice of permit, on a form prescribed by the city, within view of the nearest public right-of-way most nearly adjacent to the subject property until the time for appeal has expired.
7. The ZA shall deliver a copy of the permit to the Assessor and post a copy of the permit at the city office within three days of the date that the permit is issued. The permit shall be posted for a period of 15 days from the date of issuance.

## Section 6.11 - Effective Dates and Permit Renewals

A. **Zoning Permits.** No zoning permit shall take effect until the time for appeal under **Section 6.9.A** has passed or, in the event that a notice of appeal is properly filed, until the appeal has been decided. Permits shall remain in effect for one year from the date of issuance, unless the permit specifies otherwise.

1. Development authorized by a zoning permit shall be substantially commenced within this period or the zoning permit shall become null and void, unless a permit extension is obtained by the permittee.

2. A one-year administrative extension may be granted by the ZA if the extension is requested prior to the permit expiration date and the ZA determines that there was reasonable cause for delay in starting development. "Reasonable cause for delay" shall be based on a determination that:
  - a. The delay is the result of delays in a state or federal permitting process; or
  - b. The applicant has made a good faith effort to exercise his rights under the permit and, though the use or actual construction of structures authorized permit has not begun, the permittee is conducting work at the site in furtherance of the permitted project.
3. Only recording fees shall be assessed for an administrative extension.
4. A one-year permit extension granted under this subsection is not renewable. Should the permittee fail to substantially commence the project within the one-year extension period, he or she will be required to submit a new application for development.

B. DRB Approvals. DRB approvals shall remain in effect as follows:

1. Subdivision Approval. Final subdivision approval by the DRB shall remain in effect and run with the land, and legally recorded subdivision plats, as approved by the DRB. For purposes of these regulations, any lot approved by the DRB as part of a planned unit development under [Section 6.3](#) is considered a conforming lot.
2. Site Plan and Conditional Use Approval. Site plan and conditional use approval by the DRB shall expire with the expiration of the zoning permit, and may be extended only in accordance with [Section 6.11.A.2](#) above; or as provided for abandoned structures under [Section 4.1](#). Once approved uses or structures are established, site plan and conditional use approvals shall remain in effect and run with the land.
3. Variance Approval. Variance approval expires with the expiration of a zoning permit. Variance approval shall remain in effect and run with the land for structures or structural alterations that are constructed in strict compliance with the conditions of variance approval.

## Section 6.12 - Certificates Of Occupancy/Compliance

**A. Certificate of Occupancy/Compliance.** A certificate of occupancy issued by the ZA is required prior to the use or occupancy of land, a principal structure, or part thereof, for which a zoning permit has been issued. The purpose of this certificate is to ensure that the use or structure, as established, conforms to these regulations and the conditions of approval.

Certificates of occupancy shall not be required for certain exterior residential accessory structures, unless those structures are located within a Flood Hazard Overlay District (Special Flood Hazard Areas). Those exterior residential accessory structures, outside of the Flood Hazard Overlay District (Special Flood Hazard Areas), which are exempt from obtaining a certificate of occupancy are: satellite dishes, play structures, tree houses, doghouses, and sheds under 100 sq. ft. All exterior residential accessory structures must, however, comply with all other requirements of these regulations and conditions of approval.

1. The applicant shall submit an application for a certificate of occupancy including as-built drawings where applicable, to the ZA upon substantial completion of required improvements, but prior to the use or occupancy of the land or structure.
  - a. Substantially Complete. A development shall be deemed substantially complete if it meets all applicable permit requirements and conditions, and is habitable or otherwise able to be occupied or used for its intended purpose.
  - b. Certificates of occupancy may be issued on a unit by unit basis.
  
2. A certificate of occupancy shall not be issued until:
  - a. The applicant documents that all necessary permits and approvals required by these regulations, including applicable state and federal permits, have been obtained.

- b. The applicant provides certification from a professional engineer or site technician (designer) licensed by the state that wastewater and water supply systems have been installed and tested as approved by the state.
  - c. The applicant provides certification from a licensed engineer that all permitted road and driveway improvements have been completed in conformance with approved plans.
  - d. The ZA determines that the development has been completed in conformance with permits and approvals, from as-built drawings submitted by the applicant and/or site inspection.
3. The ZA shall inspect the premises to ensure that all work has been completed in conformance with the zoning permit and associated approvals prior to issuing a certificate.
4. A certificate of occupancy shall be issued or denied by the ZA within 14 business days of receipt of the complete application. If the ZA fails to either grant or deny the certificate of occupancy within 14 days of the submission of an application, the certificate, on appeal, shall be deemed issued on the 15th day.
5. Certificates of occupancy shall be posted, delivered and recorded in the Winooski land records and in the zoning file for the property in the same manner as zoning permits.
6. The ZA's decision to issue or deny a certificate of occupancy may be appealed to the DRB under **Section 6.9.A**.

### Section 6.13 - Exemptions

A. The following uses and structures have been determined to impose no impact or a de minimus impact on the surrounding area and the overall pattern of land development in the City in accordance with the Act [§ 4446] and, unless otherwise regulated under the Flood Hazard Area Overlay District (Article VI), are exempted from these regulations. Outside of Special Flood Hazard Areas, no municipal permits or approvals shall be required for:

1. The normal maintenance and repair of existing structures, utilities and infrastructure which does not result in any expansion or relocation, including any change to the footprint or height of a structure, or a change in use.
2. Residential entry stairs (excluding decks and porches), handicap ramps, walkways, and fences or walls in accordance with Section 4.6.
3. Exterior patios constructed without a permanent foundation.
4. Minor fill, grading or excavation that is incidental to regular driveway maintenance, and to residential lawn and yard maintenance and which does not change the existing elevation of land by more than two feet over a total area of no more than 2,000 square feet.
5. Resurfacing an existing driveway that does not result in driveway or road widening or relocation.
6. Recreational trails or paths located outside of required stream and wetland buffer areas under Section 4.8 that do not involve or require the development, construction or use of structures or parking areas (e.g., walking, hiking, cross-country skiing and/or snow mobile trails).
7. One accessory structure per lot, with written notification to the ZA, provided that the structure does not exceed 100 square feet in floor area and 10 feet in height and meets all setback distances for the district in which it is located.
8. Transit or bus stop shelters approved by the Winooski City Council or the Vermont Agency of Transportation, which do not exceed 200 square feet in area and 12 feet in height, are set back at least five feet from edge of the travel lane, and do not otherwise interfere with corner visibility or sight distances for vehicular traffic.
9. Garage sales in accordance with Section 5.4.
10. A home occupation in accordance with Section 5.7.

B. The following uses are specifically exempted from local land use and development regulations in accordance with the Act [§§ 4412, 4413]. No zoning permit or approval shall be required for:

1. Accepted agricultural and best management practices (AAPs, BMPs) as those practices are defined by the Secretary of the Agency of Agriculture, Food and Markets, including farm structures as defined under the Act [§ 4413].  
Written notification, including a sketch plan showing structure setback distances from road rights-of-way, property lines, and surface waters shall be submitted to the ZA prior to any construction, as required under AAPs. Such structures shall meet all setback requirements under these regulations, unless waived by the Secretary.
  2. Accepted management practices (AMPs) for silviculture (forestry) as defined by the Commissioner of Forests, Parks, and Recreation.
  3. Public utility power generating plants and transmission facilities regulated by the Vermont Public Service Board under 30 V.S.A. § 248, including net metered renewable energy facilities (e.g., wind generators, solar panels).
  4. Telecommunications facilities as defined under 30 V.S.A. § 248a, when and to the extent that jurisdiction for such facilities are assumed by the Public Service Board.
  5. Hunting, fishing and trapping on public or private land as specified under 24 V.S.A. § 2295. This specifically does not include facilities that support such activities, such as firing ranges and rod and gun or fish and game clubs, which are subject to these regulations.
- C. Decisions of the ZA as to whether a use is exempt from permit requirements under this section may be appealed to the DRB under **Section 6.9**.

