

PREFACE

Development regulations are not something that are inherently obvious to the average person. They contain specialized terms and lay out administrative processes. These Bylaws have been written as clearly as possible to guide a person wanting to do something on their land through these processes. They also have been written to regulate the most common issues that arise from development and create hazards and nuisances. “Development” is a very broad term in land use regulations and it is not obvious when one needs a permit. **Unless one is familiar with zoning and subdivision and the specifics of these Bylaws, the best place to start before hiring any professionals, buying materials, or starting a project is by having a discussion with the Administrative Officer.** The Administrative Officer works for the Town and these discussions are free.

The Administrative Officer is the only person authorized to issue or deny permit, or to decide that no permit under these Bylaws is needed. The Administrative Officer is also an excellent person to point one to any other local, state, or federal permits that may be needed.

Lastly, while the permitting process can be longer and complex for large projects, a lot of development is exempted from these Bylaws, and most development will only require a simple application and will be permitted in less than a month.

SECTION 1: SETTING THE STAGE

This section just notes that the Bylaws exist, why they were adopted, when they started, who administers them, what they apply to, and how they apply to preexisting development.

1.1 Enactment

In accordance with the Vermont Planning and Development Act, [24 V.S.A. §4401 \(a\)](#), there are hereby established Zoning and Subdivision Bylaws for [Town], Vermont, hereinafter referred to as the Unified Bylaw or simply “these Bylaws.”

WHAT/WHY

A title **provision** just makes it clear what these bylaws are formally called to distinguish them from other things it may reference. **‘Bylaws’** is the term for **zoning** and **subdivision** as set out in Vermont law. Towns may choose to call them other names.

1.2 Purpose

It is the purpose of these Bylaws to provide for the orderly and safe use of land in the Town of Hartland in conformance with the Town Plan, and to promote and protect the public health, safety, and welfare of its citizens and to further the state planning goals established in [24 V.S.A. § 4302](#).

WHAT/WHY

This is the general 'why' of the bylaws.

1.3 Effective date

These Bylaws were adopted on [month, day, year] and became effective on [month, day, year].

WHAT/WHY

This so everyone knows when these rules started.

1.4 Status of prior ordinance

Upon adoption of these Bylaws or amendments thereto, all prior versions are superseded. All previously issued valid permits remain in force and all development authorized under them may continue, subject to the non-conformity clause.

WHAT/WHY

This is to clarify what happens to the previous rules and **permits** issued under them.

1.5 Severability

The invalidity of any article or section of these Bylaws shall not affect the validity of any other article or section thereof.

WHAT/WHY

A severability clause ensures that the rules outlined in a bylaw, or provisions, are enforceable independent from one another; if Vermont statute changes or a court voids one part, the entire bylaw is not thrown out. Non-impacted provisions will still be enforced.

1.6 Precedence

Whenever these Bylaws impose a greater restriction upon the use of a structure or land than is required by any other statute, bylaw, rule, permit, easement, or agreement, the provisions of these Bylaws shall control.

WHAT/WHY

A precedence clause makes it clear which rules get to apply.

1.7 Administrative Officer/Administrative Bodies

There are two main sets of people set out below that an applicant may encounter when seeking a permit, getting information related to development, getting various approvals, or on appeals.

WHAT/WHY

This sets the stage for who administers the bylaw.

1.7.1 Administrative Officer

The position of Administrative Officer (AO) is hereby established and shall be filled as laid out in [24 V.S.A. § 4448](#). An Acting AO may also be appointed as needed.

The municipal AO is the main person applicants will interact with. They are where all permits start and finish. They collect fees and process applications under these Bylaws. They issue or deny permits and then file them. Any act of the AO, including the issuance or denial of a permit, can be appealed to the Development Review Board. The process for appeals is found in [Section XXXX](#).

WHAT/WHY

An Administrative Officer (AO) is created by [24 V.S.A. § 4448](#) to review permit applications. They enforce bylaw provisions without discretion, so bylaws must be as clear as possible. Towns may use other titles (ex: “zoning administrator”) but the language used in statute is “administrative officer.” The AO must be appointed promptly after the adoption of a municipality’s first zoning bylaw or whenever the position becomes vacant. The AO must interpret the bylaws literally. However, “literal interpretation” often requires the AO to use good judgment in addressing the specifics of the regulations. No bylaw defines all words. Any decision of the AO is appealable. There are also places where the AO cannot make a decision until receiving approval from the DRB, which is the body that makes more discretionary calls.

1.7.2 Development Review Board

A Development Review Board (DRB) is hereby established under [24 V.S.A. § 4460](#) for the administration of these Bylaws. For more complex kinds of development, action by the DRB is needed first before the AO can issue a permit (Site Plan Approval, certain Waivers, a Variance, Conditional Use Approval, Subdivision Approval). The AO will receive these applications and forward or refer them to the DRB, and then issue or deny permits after DRB action.

The DRB also handles all appeals of decisions or acts by the AO. All DRB decisions may themselves be appealed to the Environmental Division of Vermont Superior Court. The process for appeals is found in [Section XXXX](#).

1.8 Pre-existing development/Development underway

A new permit or approval under these Bylaws shall not be required for any existing development or use which has been lawfully established or permitted prior to the effective date of these Bylaws. No new permit is required to continue such use or structure. However, a permit may be needed for any future change, even including repair or reconstruction.

WHAT/WHY

The pre-existing section validates that if something was legal and permitted (assuming it needed to be permitted), it remains legal. It also covers those things where development is in process.

No permit is required for development that began as these Bylaws were being adopted as follows:

- a) subdivisions that have received a state subdivision permit or have applied for such a permit prior to the effective date of these Bylaws;
- b) construction that has received or applied for a state building permit prior to the effective date of these Bylaws;
- c) development that has received or applied for a Hartland Flood Permit prior to the effective date of these Bylaws;
- d) Development where physical construction has begun through the pouring of a foundation;
- e) Development that has received a local or state access permit and built a road to the construction site prior to the effective date of these Bylaws; and
- f) Development where materials sufficient to substantially complete the project have been ordered prior to the effective date of these Bylaws.

1.9 Applicability/Prohibition

Except for preexisting or in process development specified in Section 1.8, or exempted development under Section 1.11, no new development can take place without a permit. This means until a permit is issued:

WHAT/WHY

This part of these bylaws covers when you need a permit – the *applicability* of the bylaw on your current or intended land use.

- No building or structure (including roads and drives) or part thereof shall be moved, built, placed upon land, altered, or extended;
- No use shall be established or modified;
- No land shall be subdivided or combined;
- No lighting or signage shall be installed or modified;
- No land shall be disturbed, cleared, excavated, graded, blasted, or filled;

- No well shall be drilled nor septic system installed;
- No waters or wetland shall be filled;
- No vegetation shall be cut; and
- No temporary structures or movable vehicles/trailers shall be placed or parked.

Designing, surveying and other activities that do not disturb structures or land do not require a permit to begin.

1.10 Prohibition

Unless new development is *expressly permitted* under these Bylaws or *exempted* it is *prohibited*. Prohibited development is subject to enforcement and fines.

WHAT/WHY

This part makes it clear that development is either exempt, permitted or prohibited.

1.11 Exempted Development

Many types of development are exempt from regulation under these Bylaws. That does **NOT** mean they are exempt from all local, state, or federal permitting. It is the applicant's responsibility to be aware of and obtain all necessary permits. The Administrative Officer (AO) may provide helpful references.

The following development is exempt from regulation under these Bylaws:

WHAT/WHY

Many types of small development would be prohibited unless it was clear that the bylaws do not intend to regulate them. The **de minimus clause** also creates a general authority for the AO to determine a use is exempt. This determination is appealable.

1. **Required** agricultural practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets. 24 V.S.A. § 4413(d)(1)(A). A person shall notify a municipality of the intent to build a farm structure and shall abide by setbacks approved by the Secretary of Agriculture, Food and Markets. No municipal permit for a farm structure shall be required.
2. Silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation, including practices that are in compliance with the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation, or forestry operations as defined in 10 V.S.A. § 2602. (Per 24 V.S.A. § 4413(d)(1)(B)-(C).)

3. The regulation of a telecommunications facility, as defined in [30 V.S.A. § 248a](#), shall be exempt under this Bylaw when and to the extent jurisdiction is assumed by the Public Utility Commission according to the provisions of that section.
4. Placement of an antenna used to transmit, receive, or transmit and receive communications signals on that property owner's premises if the area of the largest face of the antenna is not more than fifteen (15) square feet, and if the antenna and any mast support do not extend more than twelve (12) feet above the roof of that portion of the building to which the mast is attached. [24 V.S.A. §4412\(8\)\(A\)](#).¹
5. The planting of trees and shrubs outside the right-of-way, unless not allowed under an approved site plan.
6. The removal of trees and shrubs outside of setbacks, except where such are included as landscaping as part of an approved site plan or limited under a subdivision approval.
7. Creation of mowed trails outside of setback areas and special flood hazard areas, and not in violation of other permits.
8. The height of wind turbines with blades less than twenty (20) feet in diameter, or rooftop solar collectors less than ten (10) feet high on sloped roofs (having a slope of more than five (5) degrees), any of which are mounted on complying structures, shall not be regulated. [24 V.S.A. § 4412\(6\)](#).²
9. One small sign under [two (2)] square feet on any face for residences and home occupations.
10. Public utility poles and fixtures (see Selectboard for permit).
11. Fences, berms, or walls under five (5) feet high, outside of the special flood hazard area, setbacks, and outside the highway right-of-way.
12. Fuel or propane storage tanks not used for commercial purposes, outside of the special flood hazard area, and outside of applicable setbacks.
13. Accessory buildings or structures with a footprint of not more than one hundred (100) square feet and a height under twelve (12) feet, outside of the special flood hazard area, and outside of applicable setbacks.
14. Any use or structure not clearly regulated by this Bylaw and determined by the Administrative Officer to be of such a minimal nature as to have no, or only a negligible (de minimus) impact on the property and surrounding land uses, and to

¹ Metrics required per Vermont law.

² Per Vermont law.

be in conformance with the Town Plan. Such a decision is appealable to the Development Review Board (DRB).

15. Joint filing of plats between adjacent parcels for the purpose of establishing clear property line boundaries where none exist for such adjacent parcels.
16. Filing of plats for joining (annexation) of adjacent parcels in their entirety.
17. All municipal road construction, maintenance, paving, streambank repair and culvert repair/replacement, outside of the special flood hazard area.
18. Temporary placement for less than six (6) months of signs, storage containers, construction trailers, and materials outside of the right-of way and setbacks, and incidental to development not requiring a permit under this Bylaw.
19. Temporary structures, such as event tents, booths, farmer's markets and flea market stalls, and/or event signage provided they are erected no more than two weeks before the event, in place no more than two weeks, and removed within one week after the event.
20. Recreational vehicles and travel trailers parked on residential lots provided they are registered, able to be moved, and parked outside of applicable setbacks. Such vehicles/trailers may be used as living quarters for a period of no more than thirty (30) days a year.
21. Tents and other temporary structures meant for habitation outside of setbacks and in place for no more than thirty (30) days.
22. Hunting, fishing, and trapping (as specified under [24 V.S.A. § 2295](#)) on private or public land. This permit exemption does not include the development of hunting, fishing, and trapping facilities such as firing ranges or rod and gun clubs.
23. Exterior maintenance, renovation, or repair, that does not expand the structure footprint or envelope and is compliant with any permit, and is outside of the special flood hazard area. (Note: this may require compliance with energy codes.)
24. Interior maintenance, renovation, or repair that does not add bedrooms, outside of the special flood hazard area. (Note: this may require compliance with energy or building codes.)
25. Except as necessary to ensure compliance with the National Flood Insurance Program, no permit is needed for:
 - i. An ancillary improvement as defined in [30 V.S.A. § 248a\(b\)](#) that does not exceed a footprint of three hundred (300) square feet and a height of ten (10) feet per [24 V.S.A. § 4413\(h\)\(1\)\(A\)](#), or

- ii. the following improvements associated with the construction or installation of a communications line:
 - a. the attachment of a new or replacement cable or wire to an existing electrical distribution or communications distribution pole;
 - b. the replacement of an existing electrical distribution or communications distribution pole with a new pole, so long as the new pole is not more than ten (10) feet taller than the pole it replaces.