APPLICATION GUIDE

ACT 250 LAND USE PERMIT
(10 V.S.A., CH. 151)

This guide is also available at the Natural Resources Board's web site:
http://nrb.vermont.gov/documents/application-guide-act-250.

For a copy of the Act 250 law and the Act 250 Rules visit our web site:
http://nrb.vermont.gov/regulations/statute-and-rules.

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Introduction to Act 250

The Act 250 review process created by the Vermont Legislature in 1970 is intended to cover significant development and subdivisions in Vermont. In order to obtain a Land Use Permit under Act 250, an applicant needs to demonstrate to a District Environmental Commission that the development or subdivision can meet ten specific performance criteria. In fact, these criteria are made up of 28 different concerns for the environment and the integrity of Vermont towns and regions. There are nine District Environmental Commissions which review applications. Each Commission is comprised of three members and up to four alternates who reside in the district, and who are appointed by the Governor. The Commissioners are lay people, not professional planners.

Decisions of the Commissions are in writing and are based upon a record established by an application and, in some cases, through a public hearing. During the review process, the Commissioners must avoid communication with the applicant or other people outside of a hearing to ensure that their decision is based only on the public record. In all cases, the Commission is required to follow the Vermont Rules of Evidence as followed in the courts to ensure that the record is developed in a fair manner.

If an applicant or another party does not agree with the Commission's final decision, an appeal may be filed with the Superior Court, Environmental Division. Appeals are heard anew on those issues raised on appeal and a new record is created. Environmental Division decisions are also in writing and may be appealed to the Vermont Supreme Court.

Each Commission is served by a District Coordinator who is responsible for the day-to-day administration of the Commission's business. The Coordinator and Assistants rule on jurisdictional questions, assist applicants and other parties in preparing materials for presentation to the Commission, review applications for completeness, schedule public hearings, and provide advice to the Commissions on procedural matters. Questions about the Act 250 process should be directed to the Coordinator.

The Commissions are part of an independent state agency, the Natural Resources Board. They are not part of the Agency of Natural Resources, although they share some administrative services. The Agency of Natural Resources and other state agencies may participate in the review of Act 250 applications, but only through the hearing process. Any evidence submitted by state agencies is subject to the rules of evidence and other procedural requirements.

Other parties to the review process include the municipality in which the project is located, the municipal planning commission, and the regional planning commission. Adjoining landowners will be allowed to participate to the extent that the proposed project will affect their properties. Other persons and organizations may be allowed to participate if they can demonstrate that the proposed project affects their interest or that they can assist the Commission by providing information. Anyone admitted as a party has the right to offer evidence and witnesses, ask questions relevant to their concerns, and appeal the Commission's decision to the Board.

Public hearings are convened for large or complex applications or when other parties request them. Most hearings begin with a brief overview of the project for the Commission and the public. Applicants should be prepared to provide a concise summary of the important aspects of the project. The overview is followed by discussion of party status. The applicant may object to the participation of certain people, although the Commission will make the final decision. A site visit may occur next, or it may be arranged before or after the hearing. It is important for the applicant to be prepared to show the Commission precisely where the improvements will be located. Many applicants stake the corners of buildings and the centerline of roadways. After the site visit, the Commission will review each criterion, usually in order. The applicant should be prepared to summarize the material presented in the application and answer questions about it. In some cases, applicants may wish to provide experts to support their positions. After

the criteria have been reviewed, the Commission will indicate what, if any, modifications or additional information it requires to make a final decision. The Commission will also indicate whether it anticipates reconvening the hearing. In most cases, one meeting is sufficient.

Many applications qualify for "minor" status under Act 250 Rule 51. These are cases where the District Commission, after reviewing the application, determines that there are no significant impacts under the criteria. The minor application process differs from the regular (or major) application process in that no public hearing is scheduled unless requested by a party. This will usually save time for the applicant. **The application procedures and requirements are the same for minor applications as they are for regular applications. As stated above, the Commission, not the applicant, makes the "minor" determination.**

Project Planning

In order to make the Act 250 review process as smooth as possible, applicants may wish to consider the following suggestions while designing their projects:

First, applicants should thoroughly read over the instructions and the application forms with particular attention to the requirements for each criterion. The questions under each criterion in Schedule B and the related instructions below should be particularly helpful.

Second, applicants should review their conceptual development plans against the criteria to determine whether there are any significant obstacles which could be overcome by redesign or by mitigation. Issues which might arise include the presence of primary agricultural soils under criterion 9(B), conformance with the residential density allowed in the town plan under criterion 10, the need to relocate a section of stream under criterion 1(E), or the design of a driveway exiting onto a heavily traveled highway under criterion 5. The District Coordinator is available to answer questions about interpretations of the criteria.

Third, applicants should explore options for overcoming obstacles. Civil engineers are available to assist with many technical questions. State agency staff are available to discuss mitigation options for certain issues. In some cases, the applicant should review the conceptual plans with neighbors or town officials to solve potential problems. If a potential obstacle is too great, the applicant should consider either finding another site or using the land for a more compatible use. The emphasis should be on finding solutions to the problems before spending much money on final plans and filing the application.

Fourth, once the major obstacles have been identified and solutions found, applicants should prepare the detailed application materials. Special attention should be given to showing enough detail in the plans and narratives to demonstrate compliance with the criteria. Remember that the Commission and some parties will be seeing the plans for the first time and they are probably not familiar with the detailed site conditions. The burden is on the applicant to demonstrate that the project meets the criteria.

Finally, many applicants arrange a meeting with the District Coordinator before filing the application to make certain there are not any obvious omissions. This is particularly helpful if the project is complex or there are many obstacles to overcome. Some applicants will also arrange a meeting with the staff of the Agency of Natural Resources (ANR) which reviews all Act 250 applications. This helps avoid last minute comments which can delay the review process. Call the District Coordinator for assistance.

Above all, applicants should try to remain flexible in their planning to accommodate the intent of the Act 250 criteria early in the process, before design changes become expensive.

Line-by-Line Instructions

When completing the various forms and plans required for a complete application, use the following instructions:

The application forms are now fillable forms in which the response boxes grow to fit your text. You can review your entire text box by moving to the next box. To start, select the “radio button” on the top of the form for the application type you desire: Application (new and amendment applications), Completion Date Extension, or Administrative Amendment.

The application must now be submitted electronically. The only paper submission required is one (1) complete set of paper site plans. Schedule G is now a PDF form separate from the application PDF. See the application and Schedule G for specific submission instructions, as well as “Act 250 Application: Electronic Submission Guidelines” section below.

Exhibit List

An Exhibit List is now required to be submitted with your application. Instructions on how to obtain and complete the Exhibit List form (an Excel file) is addressed later in this guide. Overall, please ensure that the Exhibit List contains detailed descriptions and that the documents themselves (e.g., site plans) reflect the same details (such as date created, date revised, sheet/drawing number, etc.).

Application Cover Sheets (pages 1 to 3 of the application)

Applicant Name: Provide the legal name and address of the applicant as it will be used on deeds, mortgages, and other legal documents. Check the legal form which describes the applicant. If the applicant is a partnership, attach a list of all the individuals in the partnership and their addresses. If the applicant is a corporation, include the incorporation information and the date the corporation was registered with the Vermont Secretary of State. Specify the applicant's legal interest in land as of the date the application is filed.

Landowner Name: Provide the legal name and address of the landowner at the time the application is filed. The landowner, if different from the applicant, will be made co-applicant for the purpose of processing the application. Once a permit is issued, the permit runs with the land and is binding on any future owners. If more than one landowner is involved, attach a list with the additional names and addresses.

Others with Significant Legal Interest: Provide the name and address of individuals and entities which have a substantial legal interest in the land, such as an easement or right-of-way. If you have questions about what constitutes a significant legal interest, contact the District Coordinator or see Act 250 Rule 10 (http://nrb.vermont.gov/documents/act-250-rules-dec-4-2015).

Contact Person: Provide the name, phone number, and mailing address for the individual you would like contacted regarding any question about the application.

Type of Project: Indicate which description best fits your project. If the project had a previous Act 250 permit, please include the number sequence (e.g., 1R0400, 4C0120-3, etc.). If you are applying to amend a permit condition which could be considered essential, you may need to address the Stowe Club Highlands analysis. Contact the District Coordinator for more information.

General Description: Provide a general description of your project which can be used in preparing a legal notice. It should include information about the number and size of buildings, the use of buildings, the number of lots, the length of roads, etc. If you are uncertain whether your description is adequate, contact the District Coordinator. You may also attach on a separate page a more detailed summary of the project.

Construction and Project Duration: Indicate how long a period of time is needed to finish construction of the project, including landscaping. Be sure to include enough time for unanticipated delays such as financing or marketing. For subdivisions, do not include the time needed for lot owners to build their own houses. For gravel pits and solid waste disposal projects, include the projected duration of the operation.

Land Acreage: Provide the total acreage of all contiguous lands which are owned by the applicant and the landowner as reflected in the deeds to the lands. Show the acreage of any additional easements or rights-of-way. Provide the acreage of the site which is actually committed to the project.

Land Location: Indicate the location of the project by providing the name of the town(s), the name of the road providing access, a prominent landmark nearby that can be used to locate the project site, the direction and distance to the site from the landmark (e.g., 0.4 miles southwest of post office), and the state plane coordinates (preferable) or latitude and longitude coordinates for the location where construction will occur (see the District Coordinator if you need help determining these coordinates). You should also attach a map of the area which identifies the project site and if possible a survey map of the property as discussed below.

Deed Information: Provide information about the deed(s) to the land(s). Be sure to use the current deed information even if the current landowner is a co-applicant only for the purpose of acquiring permits. If easements over other lands are involved, include information on where the easements are recorded. For each deed, include the name on the deed as listed, the book and page numbers, and the date the deed was recorded. If several tracts of land are involved, use a separate page to list the recording information.

ANR Permits: Check other permits needed from the Agency of Natural Resources Permits. If you are not certain whether you need a permit from the Wastewater Management Division, call the Regional Engineer, the Permit Specialist, or the District Coordinator for your district.

Local Permits: Indicate whether you have obtained or applied for a local zoning or subdivision permit. If no permit is needed, check "none needed." If you are uncertain, contact your town office for a determination. Note that many towns prefer that you obtain your local approval before filing this application. Check with your local officials.

Application Checklist: Include with your application all of the documents listed unless the District Coordinator has instructed otherwise. You may attach other documents that you feel are necessary to support your application. If you have questions about what a particular document is, contact the District Coordinator.

Applicant's Signature: The applicant must sign the application. If the applicant is a corporation, an officer must sign the application. If the applicant is a partnership, one of the partners must sign the application. If an agent signs for the applicant, a letter signed by the applicant providing such authority must be attached to the application.

Applicant's Certification: The applicant must confirm with his or her signature that he or she understands that construction of the project shall not commence, including site clearing, until a permit has been issued.

Landowner's Signature: The landowner, if different from the applicant, must authorize the application. If more than one landowner is involved, attach letters or additional pages with similar authorization language. Do not include underlying landowners of easements if a deed has been transferred granting that easement for the proposed use.

Application Distribution:

- Distribute the application as follows:
    - You are required to submit one electronic copy of the application, Schedule G, and accompanying documentation to our FTP site, or on CD rom or flash drive, or, with District Office permission, by e-mail (See the **Act 250 Application: Electronic Submission Guidelines** section later in this guide). For all parts of the application that require signatures, please scan to PDF those pages, and include them with your electronic submission so that all parties' signatures are visible.
    - In addition, submit one (1) complete set of paper site plans to the District Coordinator for your district (see attached District Map for district offices).
- Distribute one electronic copy of "Schedule G – Notice of Application Filing" as follows:
    - Scan to PDF the completed and signed Schedule G form, so that your signature is visible.
    - Send one e-mail, with the scanned-in Schedule G as an attachment, copying all the parties in the Statutory List(s) for your district(s) and town(s) the application is in.
        - The Statutory Lists are available on the Act 250 Permit Application page of the Act 250 website and include the following parties:
            - The landowner, if the applicant is not the landowner;
            - the municipality (selectmen, aldermen, or trustees);
            - the municipal planning commission;
            - the regional planning commission;
            - the Vermont Agency of Natural Resources; and
            - any adjacent municipality, municipal planning commission(s), and regional planning commission(s) for the municipality in which the land is located (ie, project is in more than one municipality or borders the municipal boundary line).

Location Map

In order for the Commission and other parties to find the project site, and in order for the municipality and state agencies to plot the project site on resource maps, an accurate location map is important. Without it, there could be delay while other parties try to locate the project site accurately.

The preferred base map to use is the U.S. Geological Survey (7.5-minute series) which shows topography, roads, and structures. These are available through many outdoor sporting goods stores, some book stores, local engineers, town planners, and regional planning commissions as well as on-line.

Photocopies can also be obtained through the District Coordinator's office. In the event the USGS maps are not available, the alternative preference is the town highway map published by the Vermont Agency of Transportation (http://vtrans.vermont.gov/). These are generally available through the municipal office or the district highway office.

On the map, indicate the boundaries of the involved tract of land and label it with bold letters so it stands out even on a photocopy. An "X" on a highway map is not as helpful and may lead to delay in reviewing the application.

Site Plan, Building Drawings

Every application for a new project or substantial alteration of an existing project should contain a site plan with sufficient detail to show how the project meets the criteria of Act 250. During the review process the site plan usually becomes the most important document the Commission relies on, so the plans should be accurate and legible.

The scale of the site plans should be sufficient to show necessary details without being confusing. Drawings at 20 feet to the inch are best for buildings, septic systems, and road details; 50 or 100 feet to the inch are acceptable scales for subdivisions as long as 20 scale plans are drawn for the septic systems, any stream crossings, and areas of extensive cuts and fills. If the use of 20 scale (1" = 20') plans results in the need for overlapping sheets, it is helpful to provide a 100 scale (1" = 100') plan showing major features with an index to the various 20 scale plan sheets. For complex projects separate sheets may be used to show various details such as grading, landscaping, erosion controls, and the like.

In general, a site plan will include the following details:

a) **Topography:** The existing topography of the site should be shown and the proposed changes in grading should be superimposed on it. It is preferable that contour lines use an interval of two feet, except for large tracts of land, where a five-foot contour interval is acceptable. It is helpful to label the contour lines using elevations above sea level. For subdivisions, the proposed grading for each lot need not be shown, but the grading for roads and other common features is needed.

b) **Property Lines:** The boundaries of the involved tract(s) of land should be included on the site plan or shown on a separate survey plan. Note that a formal survey is not required, although the boundary lines should be accurately shown. If easements over adjacent lands are needed, these should be included on the site plan as well. Proposed lot lines and easements for subdivisions should be shown and each lot numbered.

c) **Existing Features:** Existing natural and man-made features on the project site should be shown, including intermittent streams, ponds, rivers, wetlands, tree lines, buildings (existing, proposed, and those to be removed) driveways, parking areas, roads, power lines, stone walls, fences, and the like.

d) **Proposed Improvements:** New site features should be shown on the site plan as you would like them approved. They should be drawn accurately since you will be required to comply with the site plan. Details should include:

    i) *Buildings:* The footprint of proposed structures should be shown with the finished floor elevation shown. For subdivisions where homes will be built by the purchasers, footprints are not necessary. It would be helpful, however, to designate home sites if there are important resources on the lot to be protected or if the subdivision is located

in a scenic area. Some applicants designate a building envelope in which a home must be located.

ii) *Roads and Driveways:* Proposed roadways, drives, and parking areas should be shown on the site plan. For roadways, delineate the right-of-way, the amount of clearing required, the size and location of culverts, swales, drainage ditches, etc. If a drive exceeds five percent grade (one-foot vertical per twenty feet horizontal), you should prepare a road profile and typical cross sections showing the amount of cuts and fill along the centerline of the road and the final grade of the road. Profiles and cross sections for roads with lesser grades may be required if extensive earth moving is necessary.

iii) *Landscaping:* Proposed plantings and other improvements such as fences and walkways should be included. Include a key to the plants with the species and initial size shown. The height and caliper of young trees should be specified to ensure that they are healthy.

iv) *Signs, Lights, Utilities:* Functional improvements such as signs, lights, gas tanks, power lines, and the like should be shown. A separate detail of any business sign showing dimensions and type of lighting is recommended. Likewise, details of the proposed lighting fixtures including the height, type of element (sodium, mercury, etc.), the wattage, and shape should be provided.

v) *Sewage Disposal Systems:* Details of the proposed sewage disposal system(s) should be shown on the site plan as required under the Waste Water System and Potable Water Supply Rules administered by the ANR Wastewater Management Division (http://dec.vermont.gov/water/laws).

vi) *Water Supplies:* Details of the proposed water supply should be shown on the site plan, as required under the Waste Water System and Potable Water Supply Rules administered by the ANR Wastewater Management Division (http://dec.vermont.gov/water/laws). Be certain to include all applicable isolation distances.

vii) *Mitigation Measures:* If you are proposing mitigation measures to meet a particular criterion (e.g.., undisturbed buffer along a stream, agricultural soil retention, erosion controls), show those measures on the site plan.

viii) *Subdivision Covenants and/or Deed Restrictions:* Submit drafts of any documents which outline the responsibilities of future homeowners and any restrictions on the future use of the land.

e) **Cross-Sections of Site:** If the project site is located in a scenic area or if the project is unusually large or high, a cross-section drawing of the site and building(s) will be necessary to understand the scale and visibility of the project.

f) **Building Elevation Drawings:** Drawings of the facades of any buildings should be included, except for homes in subdivisions. The drawings should provide an accurate representation of the final exterior appearance of the building.

g) **Other Details:** Any other site details necessary to show compliance with the criteria should be included with the site plan (e.g., details of underground fuel tanks, traffic signal details).

h) **Date:** The date the plan(s) was drawn should be shown and the date of any revisions should be added so that the correct plan can be referred to in a permit.

Fee Information – Schedule A

Every application must be accompanied by a fee payable to the "State of Vermont" to cover in part the cost of reviewing the application. Schedule A attached to the application provides a form for calculating the fees.

For Act 250, the fee is set at $6.65 (July 1, 2015) for every $1,000.00 of the estimated construction cost plus $100.00 for every subdivided lot. (See 10 V.S.A § 6083a at http://nrb.vermont.gov/documents/act-250-statute-effective-july-1-2016) You should include a good faith estimate of the construction costs itemized in Schedule A. You will be required to file a certification of actual cost after the project is built. Site preparation includes clearing and grading. Building costs can be estimated on a square foot basis. Also include costs for equipment that is integral to the building. Roads and parking should include costs of fill, gravel, paving, and labor. Utilities include the installation of gas, oil, electrical, water, and sewer services. Off-site improvements would include any construction which is necessary for the success of the project such as upgrading town roads or other mitigation measures. Landscaping includes plantings, materials, and labor. Gravel Pits: $0.02/cubic yard for the first 1 million cubic yards of total extraction proposed over the life of the permit; $.01/cubic yard for the portion of the total extraction proposed over the life of the permit greater than 1 million cubic yards.

For subdivisions, do not include the construction costs associated with the houses on each lot if those houses are to be constructed by others. You should include the cost of constructing any single or multi-family dwellings which you intend to construct on any of the lots. You should also include the cost of constructing the common utilities which serve the subdivision such as roads, sewer lines, and water lines.

If the application is for a new project or a new phase of an existing project, the minimum fee is $187.50. If the application is for an amendment to an existing project, the minimum fee is $62.50. An applicant may petition the Commission to waive the fee in the event that a project or project impacts have previously been reviewed. (See 10 V.S.A § 6083a at http://nrb.vermont.gov/documents/act-250-statute-effective-july-1-2016) Contact the District Coordinator if you have questions about the waiver.

Act 250 Information – Schedule B

In order to demonstrate conformance with all of the criteria of Act 250, you must provide a narrative and evidence as to how each criterion is satisfied. Aside from the site plan, the Schedule B information is the most important aspect of the application and great care should be used in providing it.

The preferred method of providing the information is to prepare a written narrative which states in detail how the project conforms with each of the criteria and subcriteria of 10 V.S.A. § 6086a (http://nrb.vermont.gov/documents/act-250-statute-effective-july-1-2016) and which relates to the site plan and supporting documents. Schedule B lists the type of information needed for most projects and contains suggestions as to the appropriate evidence. For simple projects, you may use the space in Schedule B for your answers. In either case, the same type of information is necessary to demonstrate that the project conforms with the criteria.

Remember that the applicant has the burden of providing enough evidence to convince the Commission that the project meets the criteria even if there are no opposing parties. (This is sometimes referred to as the “burden of production.”) If the Commission does not find the evidence sufficient, additional

information may be requested after a public hearing. In order to avoid this potential for delay, thorough and clear answers are encouraged.

There are several methods of addressing the criteria and these are reflected in the various questions found in Schedule B. These methods include:

 Providing a direct answer to the question which is supported by common sense, the site plan, or other evidence such as a letter, manufacturer's specifications, etc.

 Agreeing to a performance standard in a permit condition which provides the necessary safeguards.

 Providing a longer technical explanation by an expert (engineer, architect, geologist, or the like) which can be evaluated by the Commission, state agencies, and other parties. This would normally be attached to the application as a supplement.

 Providing evidence of state agency or municipal approval such as a letter or permit.

 Providing a copy of a state agency permit to create a rebuttable presumption of compliance. Note this is acceptable only for certain criteria allowed under Act 250 Rule 19 (http://nrb.vermont.gov/documents/act-250-rules-dec-4-2015).

Under all of these options, the applicant should be prepared to back up the materials with testimony at a public hearing if one is held. Other parties and the Commission may also want to question the author of any letters and technical documents.

At the beginning of each section in Schedule B, a brief description of the statutory language found in 10 V.S.A. § 6086a (http://nrb.vermont.gov/documents/act-250-statute-effective-july-1-2016) is included. This should be kept in mind as your answers are prepared so as to keep the information relevant to the performance criteria. In addition, each of the criteria is discussed below. By reading through Schedule B and this overview prior to completing your site plan, you can best prepare thoughtful answers that will expedite the review process. If there is any confusion about the meaning of any of the criteria, please contact the District Coordinator or refer to the statute.

Criteria 1–1(B) (Air and Water Pollution)

Criterion 1 – Air Pollution

Every project should be designed to minimize air pollutants to levels which will not threaten public health or create an unreasonable nuisance for nearby residents. Areas of concern include:

- industrial/manufacturing emissions such as paint fumes, saw dust, chemical vapors, fly ash, and the like;

- vehicle exhaust at congested intersections;

- excessive dust, smoke, or noise during construction;

- odors or noise during operations which create nuisances for nearby residents;

- processing or storage of radioactive materials.

The precise standards for these various air pollutants may vary from case to case, and applicants should contact the District Coordinator or the **ANR Air Quality and Climate Division (Air Pollution)** if they are

not certain what acceptable standards might be. In addition, all necessary air pollution permits must be obtained. These permits can be used to create rebuttable presumptions of compliance under Act 250 Rule 19 (http://nrb.vermont.gov/documents/act-250-rules-dec-4-2015).

Some air pollutants such as noise and dust may not be health hazards, but may be a significant nuisance for neighbors. Applicants are encouraged to try to reduce these nuisances and to communicate with area residents in advance.

Criterion 1(A) – Headwaters

Every project must comply with the applicable water quality regulations. This is particularly true in headwater areas. Headwater areas include watersheds characterized by steep slopes and shallow soils; watersheds with less than 20 square miles; areas above 1500 feet in elevation; watersheds of public water supplies designated by the **ANR Drinking Water & Groundwater Protection**; and significant aquifer recharge areas.

Generally, if you have provided sufficient information to address criteria 1B, 1E, 1G, and 4, you do not need to provide additional information under this criterion. Ask the District Coordinator if you are unsure.

Criterion 1(B) – Waste Disposal

In addition to meeting any other applicable regulations regarding waste disposal, every project should be designed to provide treatment or proper disposal of wastes or toxic materials that are generated at the project site. Wastes or materials of typical concern are:

- domestic and industrial/manufacturing wastewater (including floor drains);
- stormwater overflow from parking lots and other contaminated surfaces;
- fuels, chemicals, pesticides, and the like;
- batteries and other hazardous products;
- construction debris.

For most of these concerns, permits must be obtained from the Agency of Natural Resources. (See listing of programs and telephone numbers in the back of this guide.) If you are not certain what the up-to-date standards are, contact the various permit offices before completing this application. If other permits are required, these may be used as proof of compliance under Act 250 Rule 19 (http://nrb.vermont.gov/documents/act-250-rules-dec-4-2015).

Criterion 1(C) – Water Conservation

Every project which consumes water should be designed to conserve water. This reduces burdens on municipal sewers and water systems; saves energy used to heat water, and protects ground water reserves during droughts.

For domestic plumbing, water conserving plumbing fixtures are available. For larger commercial water users, applicants should indicate how the "best available technology" for conserving water will be used.

Criterion 1(D) – Floodways

If a project will impinge on the flood hazard areas of a river or stream, it should be designed to withstand flooding and to avoid causing any significant increase in the flood level. This usually means that no

construction should occur in the "floodway" and any construction in the "floodway fringe" should be reviewed by an engineer or other qualified expert to determine that it will not cause peak flood levels to increase.

The Secretary of the Agency of Natural Resources is responsible for determining the location of the floodway and floodway fringe, and can provide information on the potential threats to the health, safety, and welfare of the public posed by stream flooding or instability (see 10 V.S.A. § 6001(6 & 7) and § 6086(a)(1)(D) at http://nrb.vermont.gov/documents/act-250-statute-effective-july-1-2016). ANR's floodway and floodway fringe determinations are made by reviewing the National Flood Insurance Program (NFIP) maps (available in your town office) for inundation hazards and by considering the potential erosion hazards of the stream channel. Questions relating to the NFIP maps should be addressed to the Municipal Zoning Administrative Officer or to the **ANR Watershed Management Division**. For more guidance on determining floodway limits, please review ANR's *Procedure on ANR Floodway Determinations in Act 250 Proceedings* and the accompanying *Technical Guidance for Determining Floodway Limits Pursuant to Act 250 Criterion 1(D)*, which can be looked up here or contact the appropriate DEC regional office for the **ANR River Corridor Management Section** (Rutland Regional Office, Springfield Regional Office, Essex Regional Office, Montpelier Regional Office, or St. Johnsbury Regional Office).

Particular care should be taken if a road or bridge is being proposed to cross a flood hazard area. An engineer should be consulted to ensure that the floodwaters will not be impeded. Any project in a floodway fringe should also be floodproofed, to ensure that floatables do not clog the floodway. Floodproofing usually involves securing floatables to the ground and raising floors above the 100-year flood elevation.

Criteria 1(E)–1(G) (Streams, Shorelines, and Wetlands)

Criterion 1(E) – Streams

Any project which encroaches on a stream should be designed to minimize the impact and maintain the natural condition of the stream. A stream may include any intermittent flow of water where there is a defined channel. The approach used by most applicants is to avoid disturbing any streams (minimizing road crossings, relocating a building, etc.) and to provide a natural buffer along the stream to provide shade and filter out sediment and other pollutants. A 50-foot buffer is usually the minimum necessary to protect the stream, but some situations may require a wider buffer strip.

If a stream is being relocated or crossed with a culvert, it should be done as a last resort and details of the construction work will be necessary. As a general rule, the construction in the stream should be confined to a very short time during which water can be diverted around the construction. Furthermore, any new stream channel should be naturalized with vegetation, rocks, and the like to restore the natural values. On-stream ponds, in general, are discouraged by the Agency of Natural Resources.

If the watershed of a stream being disturbed is more than ten square miles in area, a Stream Alteration Permit may be necessary from the **ANR Watershed Management Division**. The **ANR Regional Fisheries Biologist at the Vermont Fish & Wildlife Department** can also provide assistance in designing projects to minimize impacts on streams. Other questions may be answered by the District Coordinator.

Criterion 1(F) – Shorelines

Any project which encroaches on the shoreline of a river, pond, or lake must of necessity be located on the shoreline. The project should be designed to minimize the impact and maintain the natural condition of the shoreline. Refer to the discussion for streams under Criterion 1E for general guidelines. In

addition, projects along shorelines should provide continued public access to the water. Such access does not need to be a posted public area, but should be consistent with the access which people would have to the water if the project were not constructed.

Questions should be directed to the **Regional Fisheries Biologist at the Vermont Fish & Wildlife Department** or the District Coordinator.

Criterion 1(G) – Wetlands

Any project which encroaches on a wetland considered significant under the Vermont Wetland Rules (http://dec.vermont.gov/watershed/wetlands) should be designed to avoid and minimize the impact on the wetland. Significant wetlands are those determined to be significant by the Agency of Natural Resources, including those on the Vermont Significant Wetland Inventory (VSWI) Map, available at the District Environmental Offices and most town offices. The VSWI map is also available online on the ANR Natural Resources Atlas (http://anrmaps.vermont.gov/websites/anra5/)

Wetlands not considered to be significant may still have values which are protected under other criteria including 1E (streams), 1F (shorelines), 4 (soil erosion), 8 (scenic beauty, rare and irreplaceable natural areas), 8A (endangered species, necessary wildlife habitat), and 10 (local and regional plans). Further questions regarding wetlands can be answered by the **ANR Wetlands Biologist** or the District Coordinator.

Criteria 2 and 3 – Water Supplies

Every project which consumes water should be designed to have an adequate supply of water without creating an unreasonable burden on an existing water supply. Most applicants demonstrate that they will have an adequate water supply by providing information on nearby wells or by providing a commitment letter from a municipal water department.

If the water supply in question is marginal because of low flows or low pressure, mitigation measures should be considered to store water or upgrade the water main.

If a water system is shared by more than one owner, measures should be considered for the continued maintenance of the water system. In addition, approval may be needed from the **ANR Drinking Water & Groundwater Protection** if there are more than ten connections to a water system.

In cases where ground water supplies are very limited or where many wells are located in one area, a hydrogeologic study of the groundwater situation may be necessary to prove that an adequate water supply exists without interfering with existing wells and springs.

Finally, if an existing community water system, such as a well serving a mobile home park or a condominium complex, is located nearby, the ANR Water Supply Division may have specific concerns for protecting the recharge area for that water supply. Applicants should contact the Water Supply Division if they have questions.

Criterion 4 – Soil Erosion and Drainage

Every project should be planned to prevent undue soil erosion during and after construction. This usually requires that measures be implemented to retain eroded sediment on the construction site and to prevent it from entering any streams or other water bodies or allowed to pass onto adjoining property.

The potential for erosion should be evaluated by looking at the soil type, the length and steepness of disturbed slopes, the proximity of site work to drainage ways and streams, property lines and the length

of time the soil is exposed. The greater the risk, the greater the mitigation measures which will be required.

Erosion can usually be controlled by avoiding steep slopes, using silt fence and hay bale check dams to capture eroded sediment, stabilizing exposed soils during construction with mulch (preferably on a daily basis), and establishing vegetation on exposed soils as soon as possible. During winter months, additional measures may be needed to protect exposed soils since vegetation cannot be established and drainage is often a problem.

A site-specific erosion control plan must be submitted showing the location and type of erosion control measures to be used during the construction of all buildings, roadways, utilities, stormwater retention ponds, and other features. This should be accompanied by a written plan detailing when specific erosion controls will be installed, who is responsible for inspecting and maintaining them, and when this will occur. For more information about the elements of an erosion control plan see ANR's "Erosion Prevention and Sedimentation Control Plan Checklist" available at http://dec.vermont.gov/sites/dec/files/wsm/wetlands/docs/wl_vtepsc.pdf (***note:*** you may need to copy and paste this URL in your Internet browser's search bar).

A critical aspect of erosion control is the reliability of the person responsible for implementing the necessary measures. Applicants should be prepared to explain how they intend to ensure that the measures will be implemented and monitored by the contractor.

Recommendations for erosion control measures can be obtained from qualified engineers and from the ANR publication, *Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites*, available from ANR online at http://dec.vermont.gov/sites/dec/files/wsm/stormwater/docs/StormwaterConstructionDischargePermits/sw_low_risk_site_handbook.pdf (***note:*** you may need to copy and paste this URL in your Internet browser's search bar). For more information about the elements of an erosion control plan see ANR's *Erosion Prevention and Sedimentation Control Plan Checklist* available at http://dec.vermont.gov/sites/dec/files/wsm/stormwater/docs/StormwaterConstructionDischargePermits/sw_appendix_a_cgp_9020.pdf (***note:*** you may need to copy and paste this URL in your Internet browser's search bar) or from the **ANR Watershed Management Division**. For additional guidance, contact the District Coordinator.

In addition to erosion control, every project should be designed to retain stormwater as necessary to prevent dangerous or unhealthy situations from occurring downhill or downstream. Most applicants focus attention on where the drainage flows off the site and what changes will occur in the peak flows. If additional drainage flows or changes in the drainage pattern are likely to be a problem, provisions for retention on-site or the necessary drainage easements are recommended.

If stormwater will reach water bodies or municipal storm drains in concentrated form, a Stormwater Discharge Permit may be needed from the **ANR Watershed Management Division** as discussed under Criterion 1B above.

Criterion 5 – Transportation (*Amended effective June 1, 2014*)

(5) (A) Will not cause unreasonable congestion or unsafe conditions with respect to use of the highways, waterways, railways, airports and airways, and other means of transportation existing or proposed.

(B) As appropriate, will incorporate transportation demand management strategies and provide safe access and connections to adjacent lands and facilities and to existing and planned

pedestrian, bicycle, and transit networks and services. In determining appropriateness under this subdivision (B), the District Commission shall consider whether such a strategy, access, or connection constitutes a measure that a reasonable person would take given the type, scale, and transportation impacts of the proposed development or subdivision.

Criterion 5(A)

Every project should be designed to have safe access onto local or state highways. In addition, projects should not create or contribute to unreasonable congestion on area highways. In order to ensure that safe access will be provided, applicants should focus on the design of the intersection of any driveways or access roads with the main road. Typical concerns include:

- sight distance along the main road from the driveway or access road;

- approach grades on the driveway or access road (ability to stop in slippery weather);

- traffic controls (stop signs, automated signals, etc.);

- speed limits on the main road;

- turning or stacking lanes on the main road or driveway;

- radii of corners (ability to make turn at reasonable speeds);

- width of driveway or access road;

- number of driveways onto main road.

For driveways and roads onto state highways, there are technical standards for safety concerns and a permit is needed from the **Vermont Agency of Transportation (VTrans) Utilities and Permits Unit**. For local roads, most towns have standards which sometimes are the same as the state standards. For large projects, a professional traffic planner may be required to design the driveway intersection to ensure that it operates safely.

If the project involves a subdivision roadway, applicants should provide enough evidence to show that the road can provide reasonable access for emergency vehicles. Most towns prefer roads with slopes of less than 10 percent. Allowable widths may vary depending on the number of users of the road and whether it will be maintained by the town. Applicants should contact the town in advance of filing this application to resolve any questions about the design of subdivision roads.

Every project should be designed with adequate parking so that vehicles do not have to park in the road. Town zoning ordinances frequently have formulas for parking requirements.

For projects which generate significant traffic, applicants need to demonstrate that traffic congestion will not be a problem on area roads. If sufficient concern exists, a traffic study may be necessary to document existing conditions and forecast what peak traffic conditions will be like. As a general rule, **if a project will generate more than 80 vehicle trips per hour (in or out), a traffic study may be warranted**. In the alternative, applicants might have a traffic planner prepare a traffic assessment indicating whether a full traffic study is necessary.

If a traffic study is needed, it should focus on the trip generation rates associated with the project, the predicted "levels of service" (estimates of delay) at nearby intersections, and any mitigation measures which are necessary to maintain safe and uncongested traffic conditions. Where applicable, traffic studies should also address multi-modal transportation concerns, such as pedestrian and bicycle access and safety and the opportunity for mass transit.

Criterion 5(B) (Added effective June 1, 2014)

Applicants must also demonstrate that the project will, as appropriate, incorporate transportation demand management strategies and provide safe access and connections to adjacent lands and facilities and to existing and planned pedestrian, bicycle, and transit networks and services. The application should explain how these requirements will be met, in light of the type, scale, and transportation impacts of the proposed development or subdivision.

Questions about transportation issues under Criterion 5 can be addressed to the District Coordinator, VTrans, local road commissions or selectboards, regional planning commissions, or professional traffic planners.

Effective July 1, 2014, the District Commission and the Vermont Agency of Transportation (VTrans) have the authority to establish Transportation Impact Fees to mitigate the impact of new development on local and state highways. These impact fees may be established within a Transportation Improvement District (TID) designated by VTrans or outside of a TID. It is anticipated that the first TIDs will be designated in mid-2015. Answers to the questions below will enable the District Commission to determine whether your project may be subject to this new impact fee requirement. Contact the District Coordinator for additional information.

Within a TID:

1) Has VTrans designated a TID (transportation improvement district) in which your project is located? For additional information, contact the **VTrans Policy and Planning & Research Bureau**.

2) If YES:

   a) provide VTrans per trip fee for the TID.

   b) provide your project's peak hour trip generation (using 10th Edition ITE);

   c) provide any existing peak hour traffic allocation that your project may benefit from;

   d) provide the number of peak hour vehicle trips that you anticipate will stop at your project BUT that are not created because of your project ("pass-by-trips"—the vehicle would have already been passing by the project regardless of the development of the project);

   e) Have you or will you be paying a municipal impact fee for your project relative to any transportation improvements? If so, please explain;

   f) Have you or will you be providing any other traffic mitigation for your project (dedications in land or other traffic improvements)? If so, please explain;

   g) Explain how you could take a credit by using traffic demand management techniques.

3) If NO: proceed to the next section.

For local/state highways where no TID has been designated:

1) Has VTrans or a municipality created a capital plan to address the transportation demands in the general area that your project will benefit from?

2) OR has VTrans, a municipality or a private developer recently completed a transportation project that your project will benefit from?

3) If YES to either 1 or 2:

   a) provide your project's peak hour trip generation (using 10th Edition ITE);

   b) provide any existing peak hour traffic allocation that your project may benefit from;

   c) provide the number of peak hour vehicle trips that you anticipate will stop at your project BUT that are not created because of your project ("pass-by-trips"—the vehicle would have already been passing by the project regardless of the development of the project);

   d) Have you or will you be paying a municipal impact fee for your project relative to any transportation improvements? If so, please explain;

   e) Have you or will you be providing any other traffic mitigation for your project (dedications in land or other traffic improvements)? If so, please explain;

   f) Explain how you could take a credit by using traffic demand management techniques.

Criterion 6 – Educational Services

If a project will have an impact on area schools, the applicant needs to demonstrate that the project will not create an unreasonable burden on the ability of the municipality to provide educational services. Act 60, the Vermont Equal Education Opportunity Act, provides each town with a block grant from the State Education Fund for the operating expense of educating each student in the school system. Therefore, the operating expenses of educating the additional students resulting from the project is generally not considered to be a burden on the ability of the municipality to provide educational services. However, if the new students cause the need for an addition to the school or other capital improvements, applicants will need to address the potential financial burden to the municipality this may cause.

Applicants should indicate how many new students will likely reside at the project and what schools they may attend. Published statistics for numbers of children per household in the project's area may be available or you may want to look at comparable projects which already exist in the area. Most applicants also assume equal age distribution. Once this information is collected, applicants should contact the school district for a letter concerning its ability to provide educational services. The School Impact Questionnaire attached to the application may be helpful in this respect. If the school district has legitimate concerns, applicants should consider various mitigation measures as may be appropriate, such as impact fees, construction phasing, and the like.

When a project will introduce a large number of new employees to an area, Commissions may examine the ability of the area towns to provide school services to the employees' children. In these cases, contact the District Coordinator for further guidance.

Criterion 7 – Municipal Services

Most projects require services from the municipality and applicants need to demonstrate that an unreasonable burden will not be placed on those services. Areas of concern usually include:

- fire and police protection;

- solid waste disposal (landfill, transfer station, etc.);

- sewage treatment;

- water supply;

- rescue service (volunteer or paid professional);

- road maintenance.

Applicants need to indicate what services they will need and why their project will not have an unreasonable burden on those services. In general, if the project demands services in no greater quantity than similar projects which already exist, then little problem is likely. If on the other hand, the project creates disproportionate burdens on one of these municipal services, some sort of mitigation may be appropriate. Applicants should contact the municipality early in the process to determine whether concerns exist.

Applicants may wish to use the **Municipal Impact Questionnaire** attached to the application form to make their case.

Note that if a municipality does not already provide a service, the focus should be on whether the municipality will have to adopt the service as a result of the project or whether an adjacent municipality has to provide the service while receiving no tax revenues or fees.

Questions about municipal services should be directed to the town or city in question.

Criterion 8 – Scenic Beauty, Historic Sites, and Natural Areas

Every project should be designed to be consistent with the visual character of the area and not to have an undue adverse impact on the aesthetics of the area. The Board has set out the following test with regard to the visual impact of a project.

If a project is out of context with the scenic qualities of the area, it may be considered to have an adverse impact. The type of visual aesthetic concerns to watch for include:

- compatibility with nearby land uses (commercial, retail, agricultural, etc.);

- proximity to prominent visual features (ridgelines, wetlands, open meadows, scenic overlooks, historic buildings, shorelines, etc.);

- frequency and duration of public view;

- compatibility with nearby architectural styles and colors;

- consistency with area building density;

- visibility from nearby residences.

An adverse impact would be considered undue if the project violates a clearly written community standard regarding aesthetics, if it is visually shocking or offensive to the average person or if the applicant does not use reasonably available mitigation measures to reduce the visual impact. Of these three factors, the most attention is usually focused on what mitigation measures will be used. Typical mitigation measures include:

- relocating buildings and driveways;

- modifying building size, materials, and color;

- adding landscaping and preserving existing vegetation;

- limiting size and number of signs;

- limiting number and brightness of lighting fixtures;

- screening parking and utilities from public view;

- screening the project from neighboring residences.

For highly visible projects, or those which may be inherently unsightly, applicants may wish to consult with a professional landscape architect, architect, or site planner.

In addition to scenic qualities, projects must respect existing historic sites. Historic sites may include buildings, structures, districts, or archeological sites listed on or eligible for the state or national registers of historic places. The **Vermont Division for Historic Preservation (Agency of Commerce & Community Development)**, through their **ACCD main number** and **Survey Archaeologist (Land)**, evaluates all applications involving impacts to historic sites according to the Vermont Historic Preservation Act Rules. For more information about the Division's review process and a link to the Rules, see the Division's Act 250 - Criterion 8 web page or contact the Division directly. Applicants are encouraged to contact DHP in advance for assistance in order to avoid delays.

In general, a building or structure may be listed on or eligible for the historic registers if it is at least 50 years old. An historic district may include a group of buildings that is at least 50 years old. For example, part or all of an older village center may be considered an historic district. Archeological sites include prehistoric Indian sites as well as remains of 18th and 19th century occupation. Unlike other types of historic sites that are readily visible on the landscape, the existence of prehistoric Indian sites or areas of high prehistoric archeological sensitivity is not immediately apparent. Using information on the project area and the applicant's project description, the Division for Historic Preservation can provide applicants or the Commissions with a determination of archeological sensitivity and of potential project impacts to archeological sites. **It is important to recognize, however, that the applicant is responsible for providing sufficient information for the district commission to make affirmative findings under this criterion. What this means is that the applicant must provide evidence demonstrating whether the project tract is listed on the State or National Registers of Historic Places. (Contact the State Architectural Historian (State and National Registers of Historic Places) for information about the historic registers.) If the project tract is not on one of the historic registers, the DHP, acting on behalf of the Vermont Advisory Council for Historic Preservation, may seek to establish by testimony to the District Commission that the site is "historically significant." This is a threshold determination the District Commission must make before reviewing any potential impacts to historic sites created by the proposed project. More information about the applicant's responsibility and the burden of proof under this criterion is contained in the** District Commission Training Manual, Chapter 18 - Criterion 8 (Historic Sites - Archeology)**, available on line or by contacting the District Coordinator.**

Finally, in addition to scenic qualities and historic sites, applicants must avoid and protect rare and irreplaceable natural and fragile areas. A list of mapped and potential areas is maintained by the **Vermont Fish & Wildlife Department** (**Vermont Natural Heritage Inventory**).

Criterion 8(A) – Wildlife and Endangered Species Habitat

All projects should be designed to avoid necessary wildlife habitat and endangered species habitat. If a project cannot be so designed, it must pass three tests regarding the necessity for the project as described in the statute.

Critical wildlife habitat and endangered species can be identified by the **ANR Vermont Fish & Wildlife Department Vermont Natural Heritage Inventory** on a site specific basis. The habitat must be identifiable and critical to a species during any period in its life. Typical habitats identified by the Vermont Fish & Wildlife Department or other state agencies include:

- deer wintering areas, which include, among other characteristics, dense evergreen tree cover and steep southern facing woodlands;

- bear feeding areas, which include, among other characteristics, any remote stands of beech trees, remote wetlands above 1500 feet in elevation;

- salmonid spawning areas, found in streams and rivers with gravel bottoms;

- small mammal and bird feeding and breeding areas (wetlands).

Criterion 9(A) – Impact of Growth

Applicants must demonstrate that their project will not significantly impact the municipality's ability to provide services to its residents. For instance, if a project adds significantly to the population of the town, the town's budget may become so strained that the town will have difficulty providing services to its residents. Similarly, if a large retail project causes other retail establishments to fail, the subsequent loss of property tax revenues may also affect the town's ability to provide services. The emphasis in this latter example is not on the loss of existing retail stores themselves; rather, it is on the impact this may cause to the town's financial health and its ability to serve its residents.

For residential projects, applicants should indicate how many additional people may live in the project, what portion may be seasonal, and what percentage of the total population of the municipality these additional people represent. For commercial or recreational projects, applicants should provide information regarding anticipated employment growth, growth in personal income, retail sales growth, or growth in tourism.

For all projects, applicants should provide an estimate of the tax revenues the project will generate. This includes property tax revenues paid to the municipality as well as income tax, sales, and rooms and meals taxes paid to the state, if appropriate.

If the project is anticipated to result in a significant amount of growth in relation to historic growth rates for the town and region, applicants will be required to provide a fiscal impact analysis. Applicants should contact the District Coordinator prior to preparing such an analysis.

For more guidance under this Criterion see the following two documents: *Fiscal and Economic Analyses in Act 250* and Re: St. Albans Group and Wal*Mart Stores, Inc., #6F0471-EB, Findings of Fact, Conclusions of Law, and Order (Altered) (June 27, 1995). Both documents are available from the District Offices, from the Natural Resources Board office, or at the Board's web site: http://nrb.vermont.gov/.

Criterion 9(B) – Primary Agricultural Soils:

Definition of Primary Agricultural Soils (*Effective July 1, 2014*; Act 159)

"Primary agricultural soils" means each of the following:

(A) An important farmland soils map unit that the Natural Resources Conservation Service (NRCS) of the U.S. Department of Agriculture has identified and determined to have a rating of prime, statewide, or local importance, unless the District Commission determines that the soils within the unit have lost their agricultural potential. In determining that soils within an important farmland soils map unit have lost their agricultural potential, the Commission shall consider:

(i) impacts to the soils relevant to the agricultural potential of the soil from previously constructed improvements;

(ii) the presence on the soils of a Class I or Class II wetland under chapter 37 of this title;

(iii) the existence of topographic or physical barriers that reduce the accessibility of the rated soils so as to cause their isolation and that cannot reasonably be overcome; and

(iv) other factors relevant to the agricultural potential of the soils, on a site-specific basis, as found by the Commission after considering the recommendation, if any, of the Secretary of Agriculture, Food and Markets.

(B) Soils on the project tract that the District Commission finds to be of agricultural importance, due to their present or recent use for agricultural activities and that have not been identified by the NRCS as important farmland soil map units [10 V.S.A. § 6001(15) at http://nrb.vermont.gov/documents/act-250-statute-effective-july-1-2016].

Note: If your project does not involve any earth disturbance or the subdivision of land, you are not required to provide any information under this criterion. Contact the district coordinator if you are unsure about whether to proceed.

Classification of Primary Agricultural Soils

For information about the classification and identification of primary agricultural soils in Vermont, see the NRCS publication *Farmland Classification Systems for Vermont Soils*.

Soil Maps

The NRCS Web Soil Survey is an on-line soil mapping tool (for all of the state except some areas of the Northeast Kingdom) which displays a soils map for any parcel of land defined by the user and then calculates the number of acres of each soil type. The tool will also calculate the number of acres of primary agricultural soils for any parcel. For a link to the Web Soil Survey (instructions and brochure) and for specific instructions on the use of this tool to determine soil types and acreages, visit the NRB web site (http://nrb.vermont.gov/act250-permit/additional-resources).

The ANR Natural Resources Atlas (http://anrmaps.vermont.gov/websites/anra5/) is also an on-line mapping tool which provides information about the location of important natural resources in Vermont, including primary agricultural soils.

Required Information

If the project involves any soil disturbance or the subdivision of land, provide a summary of the soils on the entire project parcel in a matrix format showing:

- the number of acres of each type of soil on the parcel (use the soil type abbreviations and soil name); and
- the agricultural value group (1-11) for all soils listed. (See the example matrix below.)

If any of the soils listed on the matrix above are been identified as “primary agricultural soils” by the N.R.C.S., provide the following information shown on a single site plan:

- the boundaries of the entire parcel
- the location of all soils, by soil type, on the parcel
- any existing improvements on the property (existing buildings, roads, parking, etc.)
- proposed development impacts, including any proposed lot lines, all building footprints and also buffer zones, utilities, leach fields, pipelines, access roads, and parking; the development impact area should be clearly delineated on the site plan so that the District Commission can see how you have calculated the impact of the project on primary agricultural soils; please also note that even though some primary agricultural soils may not be physically disturbed by the project, they may need to be included in the calculation of “impacted” soils if they will be fragmented by the development and if they are not able to contribute to an economic agricultural operation.
- the name, location, and type of neighboring agricultural operations, including leased farmland.

Provide a summary of the impacts to primary agricultural soils in a matrix format showing:

- the number of acres of each type of primary agricultural soil (use the soil type abbreviations), including the agricultural value group (1-11) for the soils listed,
- the number of acres of primary agricultural soils already impacted by existing development on the site (if any), and
- the number of acres of each primary agricultural soil type to be impacted by the project.

(See the example matrix below.)

If you believe that any soils listed on the matrix do not meet the definition of primary agricultural soils found at 10 V.S.A. § 6001(15) (http://nrb.vermont.gov/documents/act-250-statute-effective-july-1-2016), you are required to list the soils and explain why they do not meet the definition.

All of the information above should also be provided to the **Agency of Agriculture’s Act 250 Coordinator**, along with a location map, so that the Act 250 Coordinator can provide you with a soil review letter.

Act 250 – Criterion 9(B)
Soils Matrix Example
Project Name
Date

Summary of Project Soils			
Soil Key	Soil Description	Agricultural Value Group	Area (acres)
FaE	Farmington extremely rocky loam	11	19.6
HnC	Hinesburg fine sandy loam	7	1.4
MyB	Munson and Raynham silt loam	4	15.3
Lh	Livingston Clay	6	3.9
Wo	Winooski very fine sandy loam	1	10.2

*Obtained from the NRCS Web Soil Survey.

Summary of Impacts to Primary Agricultural Soils Primary agricultural soils, as defined by Act 250, occur in value groups 1 through 7					
Soil Key	Soil Description	Agricultural Value Group	Total Area (acres)	Existing Impacts (acres)	Proposed Impact (acres)
HnC	Hinesburg fine sandy loam	7	1.4	0	0
MyB	Munson and Raynham silt loam	4	15.3	.9	4
Lh	Livingston Clay	6	3.9	0	0
Wo	Winooski very fine sandy loam	1	10.2	0	4
		Total	**30.8**	**.9**	**8**

The Four Subcriteria of Criterion 9(B)
When a project results in the reduction of the agricultural potential of **any** primary agricultural soils on the project tract, applicants must generally demonstrate compliance with subcriteria (i) – (iv) of Criterion 9(B). Compliance with specific subcriteria depends on whether the project tract is located within or outside of a **duly designated growth center** pursuant to 24 V.S.A. § 2793c, subject to the mitigation flexibility of 10 V.S.A. § 6093 (http://nrb.vermont.gov/documents/act-250-statute-effective-july-1-2016). For assistance determining whether your project tract is located within or outside of a designated growth center, please contact your town office or the Vermont Department of Housing and Community Development **(ACCD main number)** (http://smartgrowth.vermont.gov/). Projects located within a designated growth center must comply with subcriteria (i) and (iv) only. Projects located outside of a designated growth center must comply with all four subcriteria subject to any exercise of mitigation flexibility by the district commission in accordance with 10 V.S.A. § 6093(a)(3) (http://nrb.vermont.gov/documents/act-250-statute-effective-july-1-2016).

(i) For all projects, the applicant must demonstrate that the project will not significantly interfere with or jeopardize the continuation of agriculture or forestry on adjoining lands or reduce their agricultural or forestry potential; and

(ii) For projects located outside of a designated growth center, the applicant must demonstrate that there are no lands other than primary agricultural soils owned or controlled by the applicant which are reasonably suited to the purpose of the project; and

(iii) For projects located outside of a designated growth center, the applicant must demonstrate that the project has been planned to minimize the reduction of agricultural potential of the primary agricultural soils through innovative land use design resulting in compact development patterns, so that the remaining primary agricultural soils on the project tract are capable of supporting or contributing to an economic or commercial agricultural operation; and

(iv) For all projects, the applicant must provide "suitable mitigation" for any reduction in the agricultural potential of the primary agricultural soils caused by the project.

Suitable Mitigation

For projects located in a downtown development district, a growth center, a new town center designated on or before January 1, 2014, or a neighborhood development area associated with a designated downtown development district, suitable mitigation takes the form of an "off-site" mitigation fee paid to the Vermont Housing and Conservation Board (VHCB), based on the number of acres of primary agricultural soils impacted by the project multiplied by the recent per acre cost of purchasing conservation easements on primary agricultural soils in the same geographic area. The Agency of Agriculture and VHCB will draft the mitigation agreement for you, based on the requirements of 10 V.S.A. § 6093 (http://nrb.vermont.gov/documents/act-250-statute-effective-july-1-2016).

For projects located outside of a downtown development district, a growth center, a new town center designated on or before January 1, 2014, or a neighborhood development area associated with a designated downtown development district, applicants, in most instances, are required to provide "on-site" mitigation through the use of "innovative land use design resulting in compact development patterns which will preserve primary agricultural soils on the project tract for present and future agricultural use." The remaining soils must be capable of supporting or contributing to an economic or commercial agricultural operation.

The Commission has the flexibility to approve alternate mitigation proposals for projects located both inside and outside of a downtown development district, a growth center, a new town center designated on or before January 1, 2014, or a neighborhood development area associated with a designated downtown development district in "appropriate circumstances." See 10 V.S.A. § 6093 for a more complete description of mitigation requirements. You should also contact the Act 250 District Coordinator to discuss mitigation for your project.

Whether you are required to provide "off-site" mitigation in the form a fee or "on-site" mitigation by preserving soils on the project tract, you will need to contact the Agency of Agriculture for a soil review letter: **Agency of Agriculture's Act 250 Coordinator**. The soil review letter should be submitted to the District Commission as evidence regarding the existence of primary agricultural soils and, if the project is located outside of a growth center, whether the proposed mitigation complies with the required mitigation ratios of 10 V.S.A. § 6093. The district commission will decide all issues relating to the suitability of proposed mitigation (either "on-site" or "off-site"), which is primarily dependent on the location of the project. The Commission will also determine whether mitigation flexibility is appropriate pursuant to 10 V.S.A. § 6093(a)(3) (http://nrb.vermont.gov/documents/act-250-statute-effective-july-1-2016). Please note that it is your responsibility to keep the Agency of Agriculture fully informed about your project,

including any changes in the design of the project, the classification of soils, or proposed soils mitigation. (See contact information for Agency of Agriculture above under Soils Maps.)

Criterion 9(C) – Productive Forest Soils

"Productive forest soils" means "*those soils which are not primary agricultural soils but which have a reasonable potential for commercial forestry, and which have not been developed. In order to qualify as productive forest soils, the land containing such soils shall be of a size and location, relative to adjoining land uses, natural condition, and ownership patterns so that those soils will be capable of supporting or contributing to a commercial forestry operation. Land use on those soils may include commercial timber harvesting and specialized forest uses, such as maple sugar or Christmas tree production*." See 10 V.S.A. § 6001(8) (http://nrb.vermont.gov/documents/act-250-statute-effective-july-1-2016).

As with primary agricultural soils, the general rule is to avoid developing productive forest soils if possible. Questions about how to minimize the impact on forest soils are best addressed by the **County Forester** for the project area (see list at the end of this guide) or by a consulting forester. The District Coordinator can also provide further assistance as needed.

The Three Subcriteria of Criterion 9(C)

When a project results in the loss of **any** productive forest soils on the project tract, applicants must demonstrate compliance with subcriteria (i) – (iii) of Criterion 9(C). Compliance with these subcriteria depends on whether the project tract is located within or outside of a **designated growth center** as defined at **24 V.S.A. 2491(12)(A)**. For assistance determining whether your project tract is located within or outside of a designated growth center, please contact your town office or the **Department of Housing and Community Development (ACCD main number)**. Projects located **within a designated growth center** must comply with subcriterion (i) only. Projects located **outside of a designated growth center** must comply with subcriteria (i) - (iii).

> (i) The development or subdivision will not significantly interfere with or jeopardize the continuation of agriculture or forestry on adjoining lands or reduce their agricultural or forestry potential; and
>
> (ii) Except in the case of an application for a project located in a designated growth center, there are no lands other than productive forest soils owned or controlled by the applicant which are reasonably suited to the purpose of the development or subdivision; and
>
> (iii) Except in the case of an application for a project located in a designated growth center, the subdivision or development has been planned to minimize the reduction of the potential of those productive forest soils through innovative land use design resulting in compact development patterns, so that the remaining forest soils on the project tract may contribute to a commercial forestry operation.

Criterion 9(D) – Protection of Earth Resources

All projects should be designed to allow the future extraction of valuable earth resources, similar to primary agricultural soils and forest soils. In order to identify where potential reserves of earth resources may be located, check with local and regional planning maps or contact the **State Geologist**.

If a valuable earth resource is located at a project site, it should be determined whether the resource could reasonably be extracted given its quantity, depth, and environmental limitations. If the resource

could be extracted in the future, the project should be designed to protect access to the resource for future extraction.

Questions about this criterion should be addressed to the District Coordinator, local or regional planners, or the State Geologist.

Criterion 9(E) – Extraction of Earth Resources

If the project involves the extraction of earth materials, such as topsoil, sand, gravel, crushed rock, marble, slate, or granite, the extraction process should be designed to minimize impacts on neighboring land uses and the environment, and a suitable reclamation plan should be prepared.

Impacts on neighboring land uses usually center on noise, dust, water supplies, and traffic. Applicants should contact area residents and explore mitigation measures which may be acceptable. Many applicants limit the hours of operation and use earthen berms or wooded buffers to reduce noise. Dust can be controlled by various means, including water spray, truck covers, and the like. Water supplies can be protected by limitations on blasting and preservation of drainage patterns.

Reclamation plans for many applicants involve specifying the maximum extent of excavation, specifications for soil stockpiling and replacement in a progressive manner, and revegetating exposed soils. In many cases applicants need to provide financial surety that the reclamation will occur, either through bonding or through continuous growth of an escrow account as the operation continues.

Questions about the extraction of earth resources can be addressed by the State Geologist and the District Coordinator.

Criterion 9(F) – Energy Conservation

All projects must incorporate the best available technology for energy efficiency and reflect principles of energy conservation, including reduction of greenhouse gas emissions from the use of energy. All projects must also provide evidence that the project complies with the applicable building energy standards under 30 V.S.A. § 51 or 53 (Residential Building Energy Standards (RBES)-Stretch Code and the Commercial Building Energy Standards (CBES), respectively).

Compliance with this criterion can be met by certifying that the project, when constructed, will meet the RBES-Stretch Code or CBES-Stretch Guidelines. Submission of a Department of Public Service certification that the project meets the Stretch codes/guidelines will be required to be filed post-construction. Contact the **Department of Public Service** for the RBES Certificate and CBES Certificate forms. Under the Criterion 9F Procedure (http://nrb.vermont.gov/documents/9fprocedure) and the statute, these actions create a presumption of compliance with Criterion 9F. If the presumption cannot be met, additional documentation will be required.

All applicants are encouraged to contact Efficiency Vermont, your electric utility, or a private energy consultant, which can offer guidance on how to incorporate the best available technology for cost and energy savings. Efficiency Vermont is a statewide organization that assists individuals and businesses in determining their energy use, designing energy efficient systems, and obtaining rebates. Efficiency Vermont can assign an Energy Consultant who can provide review, analysis, and recommendations of energy efficiency measures for both residential and commercial new construction projects. Contact **Efficiency Vermont at 1-888-921-5990 (toll-free)**.

Criterion 9(G) – Private Utilities

If a project involves a utility such as a road, water line, sewer line, well, or the like which will be shared by more than one user, the applicant needs to provide a mechanism which protects the municipality from having to assume responsibility for the utility in the future or which assures that the utility will not be a burden on the municipality.

Most applicants either design the utility to meet municipal specifications when it is built or they provide a legal mechanism for the owners to maintain and eventually repair or replace the utility. The municipality should be consulted about its preference if possible. Other questions may be directed to the District Coordinator.

Criterion 9(H) – Scattered Development

The first step under this criterion is to determine whether the project tract is physically contiguous to an existing settlement. Effective June 1, 2014, "existing settlement" means an area that constitutes one of the following:

> (i) a designated center; or
>
> (ii) an existing center that is compact in form and size; that contains a mixture of uses that include a substantial residential component and that are within walking distance of each other; that has significantly higher densities than densities that occur outside the center; and that is typically served by municipal infrastructure such as water, wastewater, sidewalks, paths, transit, parking areas, and public parks or greens.

Strip development outside an area described in subdivision (i) or (ii) above shall not constitute an existing settlement.

If the project is contiguous to an existing settlement, Criterion 9H does not apply.

If the project is not contiguous to an existing settlement as defined above, then applicants need to demonstrate that the additional tax revenues and other public benefits of the project outweigh the additional costs of providing municipal services to the project. Information generated under criteria 5, 6, 7 and 9A may be relevant under this criterion. Evidence under this criterion is often submitted in the form of a ratio of benefits vs. costs (dollar for dollar). For example, $1.95 in revenue is generated for every $1.00 of municipal costs to serve the project.

Additional questions can be answered by the District Coordinator.

Criterion 9(J) – Public Utilities

All projects need to be designed so that they will not cause excessive or uneconomic demands on public utilities, which include natural gas companies, electric companies, telephone companies, cable television companies, water companies (public or private), sewer utilities (public or private) and highway departments.

For electric companies, the greatest concern is often whether they can provide electricity without having to eventually build new and expensive generating and/or transmission facilities or purchase more expensive electricity from other utilities. To alleviate this concern, applicants should make every effort to minimize electrical usage during periods of peak electrical demand. In general, this can be accomplished by avoiding electric space heating, electric water heating, and other uses of electricity where reasonable

alternatives exist. For commercial projects with large electrical demands, applicants should contact the **Vermont Department of Public Service Planning and Energy Division Energy Efficiency Program Specialist** or the electric utility serving the project.

For utilities which have cables on the project site, applicants should demonstrate that they will not interfere with the cables, or that they will work out any relocation of the cables. If the cables are not along the road and may be affected by the project, most applicants include a letter from the utility confirming that any issues have been resolved.

For sewer, water, and highway services, information provided under criteria 5, 6, and 7 is usually sufficient. If these services were not addressed, applicants should provide information on any impacts under this criterion.

Criterion 9(K) – Public Investments

Projects should be designed to avoid unreasonable impacts on any public investments which are adjacent to the project site. Typical investments of concern include, highways (existing or proposed), sewer and water lines, schools, parks and wildlife refuges, municipal or state buildings, and publicly financed projects or public waterways. If impacts on any of these types of investments are not addressed under other criteria, they should be addressed under this criterion. Questions can be directed to the District Coordinator.

Criterion 9(L) – Settlement Patterns (*New, effective June 1, 2014*; formerly Rural Growth Areas)

To promote Vermont's historic settlement pattern of compact village and urban centers separated by rural countryside, a permit will be granted for a development or subdivision outside an existing settlement when it is demonstrated by the applicant that, in addition to all other applicable criteria, the development or subdivision:

(i) will make efficient use of land, energy, roads, utilities, and other supporting infrastructure; and

(ii) (I) will not contribute to a pattern of strip development along public highways; or

(II) if the development or subdivision will be confined to an area that already constitutes strip development, will incorporate infill as defined in 24 V.S.A. § 2791 and is designed to reasonably minimize the characteristics listed in the definition of strip development under subdivision 6001(36) of this title.

"Strip development" means linear commercial development along a public highway that includes three or more of the following characteristics: broad road frontage, predominance of single-story buildings, limited reliance on shared highway access, lack of connection to any existing settlement except by highway, lack of connection to surrounding land uses except by highway, lack of coordination with surrounding land uses, and limited accessibility for pedestrians. In determining whether a proposed development or subdivision constitutes strip development, the District Commission shall consider the topographic constraints in the area in which the development or subdivision is to be located. 10 V.S.A. 6001(36)

"Existing settlement" means an area that constitutes one of the following:

(i) a designated center; or

(ii) an existing center that is compact in form and size; that contains a mixture of uses that include a substantial residential component and that are within walking distance of each other; that has significantly higher densities than densities that occur outside the center; and that is typically served by municipal infrastructure such as water, wastewater, sidewalks, paths, transit, parking areas, and public parks or greens. 10 V.S.A. 6001(16)

Strip development outside an area described in subdivision (i) or (ii) above shall not constitute an existing settlement.

"Designated center" shall mean a downtown development district, village center, new town center, growth center, Vermont neighborhood, or neighborhood development area designated under 24 V.S.A. chapter 76A.

The first step is to determine whether the site is within a designated center or other "existing settlement" as defined above. If so, Criterion 9L does not apply.

If the project is not inside an existing settlement, Criterion 9L applies. First, the Project must make efficient use of land, energy, roads, utilities, and other supporting infrastructure. Explain how your project meets these requirements.

Second, the Project cannot contribute to a pattern of "strip development" along public highways, otherwise it will be denied under Criterion 9L. Relevant information includes where the Project is located relative to other development and whether the Project has any of the characteristics of strip development.

If the Project will be confined to an area that already constitutes strip development, the Project must incorporate "infill," which means the use of vacant land or property within a built-up area for further construction or development, and must reasonably minimize the characteristics listed in the definition of strip development above. Explain how it achieves this.

To determine whether the project is confined to an area that already constitutes strip development, look at the area surrounding the project site and see if it meets the definition of strip development. If the project is confined to such an area, provide information to support this. It may be helpful to attach an aerial photo of the area, for instance, from a Google maps satellite view or the ANR Natural Resources Atlas (http://anrmaps.vermont.gov/websites/anra5/), indicating the project location and showing the surrounding area.

Criterion 10 – Local and Regional Plans

All projects must be in conformance with the municipal plan, the regional plan, and any capital improvement plan which may exist.

In order to demonstrate compliance with a plan, applicants should provide copies of the relevant portions of the plan including the future land use map and copies of the policies which relate to appropriate uses for the district identified on the map. Applicants should also provide their own interpretation of the policies and describe how the project conforms to these policies. As with all criteria, the Commission must make its own determination of compliance with the local and regional plans. Simply attaching a letter from the local or regional planning commission indicating compliance in one or two sentences is not enough. Questions about local plans can usually be answered by the local planning commission or its staff.

Compliance with a regional plan can be accomplished in the same way as the local plan. Questions about the regional plan should be addressed to the staff of the regional planning commission. In cases

where the local plan and the regional plan conflict as to the appropriate use or density of use, the Commission may apply the regional plan only to the extent that the project has regional impacts, such as traffic impacts which go beyond the immediate vicinity of the project.

If a municipality has a capital plan, applicants should explain why any impacts on municipal services such as streets or sewers are consistent with the town's plans for expansion of the facilities. If not, mitigation measures should be considered. These concerns are similar to those addressed under criteria 5, 6, 7, 9A, 9G, 9J, and 9K. Questions about capital plans should be addressed to the municipality.

Schedule E – Adjoiner Information

A notice that the application has been filed will be provided by the Natural Resources Board to all adjoining landowners, unless waived by the Commission. In order to accomplish this, the applicant must provide to the Natural Resources Board the correct names and mailing addresses of all the adjoining landowners and others with a legal interest in the project land or adjoining lands, if they are not already co-applicants. Use Schedule E to provide these names and addresses. **Make every effort to obtain up-to-date ownership records,** since failure to include the correct landowner could result in a significant delay in the review process.

Information about adjoiners, if necessary, can be obtained from the municipal offices (deeds, tax maps, listers records, personal knowledge) or from nearby residents. Be certain to include the owners of land on the opposite sides of roads, streams, and railways, as well as the owners of rights-of-ways such as power companies (unless the power line is in the highway right-of-way) or water companies. Include the holders of spring rights and other encumbrances on the land. If the project involves a condominium project, include the individual owners if the common lands are owned jointly by the owners. If the project involves more than 20 adjoiners, the District Environmental Office staff appreciates receiving the names on mailing labels to facilitate the notification process.

Schedule G – Notice of Application Filing

You must also post, or cause to be posted, a copy of Schedule G in the town clerk's office of the town or towns wherein the land proposed for subdivision or development lies. You request this posting by e-mailing the Schedule G to the town clerk's office(s) and the appropriate recipients on the Statutory Parties list for your District. Be sure to also include a copy of Schedule G with your electronic submission of your application to the District. **No Schedule G is required for Administrative Amendment applications.**

By signing Schedule G you certify that you have complied with 10 V.S.A. § 6084 by sending your application by email to the Statutory Parties – the landowner if the applicant is not the landowner, the municipality, the municipal planning commission, the regional planning commission, the Agency of Natural Resources, and any adjacent municipal entities and adjacent regional planning commissions if the property abuts another town or region. Email addresses for these entities are found on the Statutory Party E-mail Lists located here: http://nrb.vermont.gov/act250-permit. See "Act 250 Application: Electronic Submission Guidelines" below for more information.

Schedule G contains a link to the Act 250 Database in which your electronic documents are housed. Your application will be viewable directly through the Act 250 Database by the Statutory Parties by inputting your application number into "Project Number" field at https://anrweb.vt.gov/anr/vtanr/Act250.aspx.

Supporting Documents

At the end of your application you should attach the necessary supporting documents that are called for in the application or that you believe are necessary to support your application. Try to reference the attachments in the application under the relevant questions in Schedule B.

While it is important to document thoroughly your positions under each of the criteria, it is not desirable to submit irrelevant or repetitive information. For example, if you are submitting well log information to meet criterion 2 (water supplies) it may be more effective to include a summary of the well log results on one page and a map showing the well locations, rather than including a separate page for each well. You can always produce the originals on demand if the accuracy of the information is later challenged. Likewise, attaching several pages of erosion control specifications out of a construction contract is more effective than submitting the entire 60-page contract. The applicant has to perform a balancing act between providing enough information to satisfy the Commission and other parties and overwhelming them with useless detail. If you are in doubt, contact the District Coordinator for assistance.

Newspaper Publication

For all applications, a legal notice must be published in a local newspaper. The Commission will take responsibility for sending the notice to the newspaper, but **the applicant is responsible for paying for the publication**. Most newspapers in the state will send an invoice to the applicant after the notice has been published, but some newspapers require payment prior to publication. It is important for the applicant to submit prompt payment in order to avoid delays in the application review process. If for some reason the newspaper will not bill the applicant, the District Coordinator will make other arrangements.

Vermont State Agencies (Central Offices)

Department of Environmental Conservation (Agency of Natural Resources)
One National Life Drive, Davis 2
Montpelier, VT 05620-3901

-	Air Quality and Climate Division (Air Pollution)	802-828-1288
-	Drinking Water & Groundwater Protection	802-828-1535
-	Watershed Management Division - Wastewater Management - Floodplain Management	802-828-1535
-	Wetlands Biologist	802-490-6177
-	Waste Management and Prevention Division (Hazardous Materials)	802-828-1138
-	State Geologist	802-522-5210

Vermont Fish & Wildlife Department (Agency of Natural Resources)
One National Life Drive, Davis 2
Montpelier, VT 05620-3901

-	Vermont Natural Heritage Inventory	802-271-0733

Natural Resources Board
Dewey Building 802-828-3309
National Life Drive
Montpelier, VT 05620-3201

Agency of Transportation
One National Life Drive
Montpelier, VT 05633-5001

-	Utilities and Permits Unit	802-828-2653
-	Airport Operations	802-828-1735
-	Railroad Operations	802-828-2760
-	Policy and Planning & Research Bureau	802-828-3968

Division for Historic Preservation (Agency of Commerce & Community Development)
National Life Building, 6th Floor
Montpelier, VT 05620-0501

-	ACCD main number	802-828-3211
-	Historic Preservation Review Coordinator (Buildings)	802-477-2288
-	Survey Archaeologist (Land)	802-272-7358
-	State Architectural Historian (State and National Registers of Historic Places)	802-828-3043

Agency of Agriculture, Foods & Markets
116 State Street, Drawer 20
Montpelier, VT 05620-2901

-	Act 250 Coordinator	802-828-2430

Department of Public Service
112 State Street
Montpelier, VT 05620-2601

-	Planning and Energy Division Energy Efficiency Program Specialist	802-828-3183 1-800-642-3281

Vermont Agency of Natural Resources Regional Offices

Regional Engineers at the Department of Environmental Conservation

For towns served by each DEC regional office, see **http://dec.vermont.gov/water/ww-systems#romap**

Rutland Regional Office
450 Asa Bloomer State Office Bldg
88 Merchants Row
Rutland, VT 05701-5903
Tel. 802-786-5900

Springfield Regional Office
100 Mineral Street, Suite 305
Springfield, VT 05156
Tel. 802-885-8855

Essex Regional Office
111 West Street
Essex Jct., VT 05452
Tel. 802-879-5656

Montpelier Regional Office
1 National Life Drive, Davis 1
Montpelier, VT 05620-3703
Tel. 802-828-5034

St. Johnsbury Regional Office
374 Emerson Falls Road, Suite 4
St. Johnsbury, VT 05819-2099
Tel. 802-751-0130

Regional Wildlife Biologists at the Vermont Fish & Wildlife Department

Fish & Wildlife District #1 - Windham and Windham Counties
100 Mineral Street, Suite 305
Springfield, VT 05156
Tel. 802-885-8855

Fish & Wildlife District #2 - Bennington and Rutland Counties
271 North Main St. Suite 215
Rutland, VT 05701
Tel. 802-786-0040

Fish & Wildlife District #3 - Orange, Lamoille, and Washington Counties
5 Perry St., Suite 40
Barre, VT 05641-4266
Tel. 802-476-0199

Fish & Wildlife District #4 - Addison, Chittenden, Franklin, and Grand Isle Counties
111 West Street
Essex Jct., VT 05452-4695
Tel. 802-879-1564

Fish & Wildlife District #5 - Orleans, Essex, and Caledonia Counties
374 Emerson Falls Road, Suite 4
St. Johnsbury, VT 05819
Tel. 802-751-0100

Regional Fisheries Biologist at the Vermont Fish & Wildlife Department

Fish & Wildlife District #1 - Windham and Windham Counties
100 Mineral Street, Suite 305
Springfield, VT 05156
Tel. 802-885-8855

Fish & Wildlife District #2- Bennington and Rutland Counties
271 North Main St., Suite 215
Rutland, VT 05701
Tel. 802-786-0040

Fish & Wildlife District #3 - Orange, Lamoille, and Washington Counties
3696 Roxbury Road
Roxbury, VT 05669
Tel. 802-485-7566

Fish & Wildlife District #4 - Addison, Chittenden, Franklin, and Grand Isle Counties
111 West Street
Essex Jct., VT 05452
Tel. 802-879-1564

Fish & Wildlife District #5 - Orleans, Essex, and Caledonia Counties
374 Emerson Falls Road, Suite 4
St. Johnsbury, VT 05819
Tel. 802-751-0100

County Foresters at Department of Forests, Parks, & Recreation Regional Offices

http://fpr.vermont.gov/forest/your_woods/county_forest/who_where

Addison Cty. Forester: Chris Olson
23 Pond Lane, Suite 300
Middlebury, VT 05753
Tel. 802-388-4969 x333
chris.olson@vermont.gov

Bennington Cty. Forester: Kyle Mason
271 North Main Street, Suite 215
Rutland, VT 05701
Tel. 802-595-9736
kyle.mason@vermont.gov

Caledonia/Essex Cty. Forester: Matthew Langlais
374 Emerson Falls Road, Suite 4
St. Johnsbury, VT 05819-2099
Tel. 802-751-0111
matt.langlais@vermont.gov

Chittenden Cty. Forester: Ethan Tapper
111 West Street
Essex Junction, VT 05452-4695
Tel. 802-585-9099
ethan.tapper@vermont.gov

Franklin/Grand Isle Cty. Forester: Nancy Patch
278 South Main Street, Suite 2
St Albans, VT 05478
Tel. 802-524-6501 x441
nancy.patch@vermont.gov

Lamoille Cty. Forester: Rick Dyer
29 Sunset Drive, Suite 1
Morrisville, VT 05661-8331
Tel. 802-888-5733 x406
rick.dyer@vermont.gov

Orange Cty. Forester: David Paganelli
118 Prospect Street, Suite 102
White River Junction, VT 05001
Tel. 802-461-5304
david.paganelli@vermont.gov

Orleans Cty. Forester: Jared Nunery
1162 North Craftsbury Road
(Mail: P.O. Box 62)
Craftsbury Common, VT 05827
Tel. 802-586-7711 x169
jared.nunery@vermont.gov

Rutland Cty. Forester: Chris Stone
271 North Main Street, Suite 215
Rutland, VT 05701-2423
Tel. 802-786-3853
chris.stone@vermont.gov

Washington Cty. Forester: Dan Singleton
5 Perry Street, Suite 20
Barre, VT 05641-4265
Tel. 802-476-0172
dan.singleton@vermont.gov

Windham/Windsor Cty. Forester: Sam Schneski
100 Mineral Street, Suite 304
Springfield, VT 05156-3168
Tel. 802-289-0623
sam.schneski@vermont.gov

Windham Cty. Forester: Bill Guenther
130 Austine Drive, Suite 300
Brattleboro, VT 05301
Tel. 802-257-7967 x305
bill.guenther@vermont.gov

Windsor Cty. Forester: Allen (A.J.) Follensbee
118 Prospect Street, Suite 102
White River Junction, VT 05001
Tel. 802-281-5262
allen.follensbee@vermont.gov

UVM Extension, Main Office
23 Mansfield Avenue
Burlington, VT 05401
Tel. 656-2990
Toll-free 1-866-622-2990

U.S. Department of Agriculture Natural Resource Conservation Service Regional Offices

www.vt.nrcs.usda.gov

Central Zone District Conservationist - Addison, Chittenden, Orange, and Washington Counties
Marybeth Whitten
68 Catamount Park, Suite B
Middlebury, VT 05753
Tel. 802-388-6748, ext. 127

Northeast Zone District Conservationist - Caledonia, Essex, and Orleans Counties
David Blodgett
59 Waterfront Plaza, Suite 12
Newport, VT 05886
Tel. 802-334-6090, ext. 125

South Zone District Conservationist - Bennington, Windsor, Windham, and Rutland Counties
Nathan Hamilton
170 South Main Street
Rutland, VT 05701
Tel. 802-775-8034, ext. 114

Northwest Zone District Conservationist - Franklin, Grand Isle, Lamoille Counties
Corey Brink
27 Fish Pond Road, Suite 1
St. Albans, VT 05476
Tel. 802-524-6505, ext. 118

Regional Planning Commissions

Addison County Regional Planning Commission
14 Seminary Street
Middlebury, VT 05753
Tel. 802-388-3141
http://acrpc.org/

Bennington County Regional Commission
111 South Street, Suite 203
Bennington, VT 05201
Tel. 802-422-0713
http://www.bcrcvt.com/

Central Vermont Regional Planning Commission
29 Main Street, Suite 4
Montpelier, VT 05602
Tel. 802-229-0389
http://centralvtplanning.org/

Chittenden County Regional Planning Commission
110 West Canal Street, Suite 202
Winooski, VT 0540 05404
Tel. 802-846-4490
http://www.ccrpcvt.org/

Lamoille County Planning Commission
P.O. Box 1637
52 Portland Street, 2nd floor
Morrisville, VT 05661
Tel. 802-888-4548
http://www.lcpcvt.org/

Northeastern Vermont Development Association
P.O. Box 630
36 Eastern Avenue, Suite 1
St. Johnsbury, VT 05819
Tel. 802- 748-5181
http://www.nvda.net/

Northwest Regional Planning Commission
75 Fairfield Street
St. Albans, VT 05478
Tel. 802-524-5958
http://www.nrpcvt.com/

Rutland Regional Planning Commission
P.O. Box 965
67 Merchants Row - The Opera House
Rutland, VT 05702
Tel. 802-775-0871
http://www.rutlandrpc.org/

Southern Windsor County Regional Planning Commission
P.O. Box 320
38 Ascutney Park Road - Ascutney Professional Bldg
Ascutney, VT 05030
Tel. 802-674-9201
http://swcrpc.org/

Two Rivers-Ottauquechee Regional Commission
128 King Farm Road
Woodstock, VT 05091
Tel. 802-457-3188
http://www.trorc.org/

Upper Valley/Lake Sunapee Regional Planning Commission
10 Water Street, Suite 225
Lebanon, NH 03766
Tel. 603-448-1680
http://www.uvlsrpc.org/

Windham Regional Commission
139 Main Street, Suite 505
Brattleboro, VT 05302
Tel. 802-257-4547
http://windhamregional.org/

Act 250 Application: Electronic Submission Guidelines

The Natural Resources Board is improving on-line access to Act 250 files for applicants, state agency staff, and the general public. As part of this effort, we will be expanding the on-line Act 250 database (https://anrweb.vt.gov/anr/vtanr/Act250.aspx) into a comprehensive, searchable database of all Act 250 applications, as well as an internet-based map which will allow users to geographically locate lands subject to Act 250 permits. (At this time only a portion of the Act 250 files are available through the public Act 250 database. Please contact an Act 250 District Office for files you are unable to locate online.)

To help implement this effort, applicants and parties are required to file an electronic copy of all Act 250 submittals, including the original Act 250 permit application and any follow up submittals, pursuant to Act 250 Rule 10(E) (http://nrb.vermont.gov/regulations/statute-and-rules), unless this requirement creates an undue burden for the applicant or a party.

Please submit the electronic application and all accompanying electronic documents (including any site plans), 1 complete set of paper site plans, and the fee check to the designated District Office (applicants of District 2 may forego submitting the set of paper site plans—the electronic version will suffice). You will need to e-mail the Schedule G "Notice of Initial Application Filing" form to the pertinent parties on the Statutory Parties List.

The following guidelines provide further information about the format of electronic submissions.

If you have questions about these new electronic filing requirements, please contact your District Office staff (see contact information on the cover page of the Act 250 application forms or at http://nrb.vermont.gov/act250-program/district-staff-and-commissions).

DISCLOSURE STATEMENT:

Any links to third-party software available in this document are provided "as is" without warranty of any kind, either expressed or implied and such software is to be used at your own risk.

The use of the third-party software links provided herein is done at your own discretion and risk and with agreement that you will be solely responsible for any damage to your computer system or loss of data that results from such activities. You are solely responsible for adequate protection and backup of the data and equipment used in connection with any of the software links provided in this document, and the Natural Resources Board (NRB) will not be liable for any damages that you may suffer connection with downloading, installing, using, modifying or distributing such software. No advice or information, whether oral or written, obtained by you from the NRB or from this document shall create any warranty for the software.

Guidelines for Electronic Media, File Formats, and Folders

Accessing and downloading the online Act 250 Application form

1. The form, available via a link on the NRB website (http://nrb.vermont.gov/act250-permit), is a fillable PDF form which you will need to download and save to your computer. We strongly recommend that you download the PDF file to your computer ***before*** you start filling it in. Once you have saved the PDF to your computer, fill in all pertinent sections in the form, saving frequently.

2. Download problems with Internet browsers:

   a) Some applicants have experienced problems downloading the Application PDF, receiving a "Please wait…" message. In this event, return to the page where the link to the PDF file is located and with your cursor hovering over the PDF file name, right click your mouse and in the drop-down menu that opens, choose "Save target as..." (variations, depending on the browser may include "Save link as...", "Save linked file as...", etc). Then save the file to your computer.

   b) If you do not have a PDF-reading program, you can download Adobe Reader for free (https://get.adobe.com/reader/), which allows you to open, save to your computer, and fill in the PDF forms. Please note that Adobe Reader version 9 or higher is necessary for the application forms to function properly.

   c) If you still are experiencing problems downloading the application:

      (1) Visit the District Office in person where you can use a dedicated Act 250 computer kiosk to download, fill in, and submit your application and accompanying documents.

      or

      (2) Contact your District Office, who will e-mail you the application PDF file as an attachment. Once you receive the file, be sure to save it to your computer desktop before filling it in.

3. To fill in the PDF, you will need an Adobe product: either Adobe Reader (free at https://get.adobe.com/reader/) or Adobe Acrobat (Pro or Standard). These Adobe products must be ***version 8.1 or newer*** for the proper function of the Schedule A form within the application. Failure to use v. 8.1 or newer will result in miscalculation of fees due with your application and may delay the processing of your application.

Exhibit List completion and submission

With your application, you must now include a completed Exhibit List file (MS Excel). To properly complete and submit the Exhibit List.xls file, you will need to do the following:

1. Download the file from the Act 250 Permit Application page on the NRB website (http://nrb.vermont.gov/act250-permit) and save the file to your computer.
2. Fill in the fields listed below in the *upper portion of the Exhibit List form*. Please leave the "Application #" field blank, as this will be filled in at the District Office where and when the application number is assigned.
   - **Applicant(s):** Provide the legal name of the applicant as it will be used on deeds, mortgages, and other legal documents.
   - **Landowner(s):** Provide the legal name of the landowner at the time the application is filed.

- **Project Town(s):** Provide the location of the project by providing the name of the town(s).

3. In the ***lower portion of the Exhibit List form***, type in the name of each exhibit.
    - An "exhibit" is each document in your set of application documents.
    - The "Exhibit List" (Excel file itself) acts as a table of contents for your full set of application documents and is always listed as "000".
    - The numbering scheme (000, 001, 002, etc.) represents the order in which your electronic exhibits will appear online in the Act 250 Database. It is critical that each electronic exhibit file begin with one of these assigned numbers. As mentioned above, the Exhibit List itself must be named "000 Exhibit List". The Act 250 application form itself must be named "001". And the Schedule G form (now separate from the Act 250 application form itself) must be named "002". All other accompanying electronic files you provide with your application must be named "004" onward.
    - Please be sure to used document names/descriptions in the dedicated field in the Exhibit List that are as specific or precise as possible. **Especially for site plans and other miscellaneous documents, ensure you include the date (including revised dates, when applicable) of the plan, sheet/drawing numbers, etc, not only on the Exhibit List, but also on the documents themselves.** This will help our district staff properly identify and match up each entry in your Exhibit List with the Exhibits you provide with your application and help move the application process forward more quickly.
    - An example of an applicant-submitted Exhibit List is below, for reference. The fields are highlighted in yellow to indicate which portions of the form you will need to fill in. ***NOTE***: There can be considerable variation from what is listed below in terms of documents you provide or that are required for your Act 250 application. The below is only meant to provide you with general format.
    - You need only submit the Exhibit List once, which would be at the time of submission of your application. You may need to submit supplemental materials later in the application review process, however you will not need to provide an updated Exhibit List. Act 250 District staff will update your original Exhibit List for you with the supplemental documents you provide, accordingly.

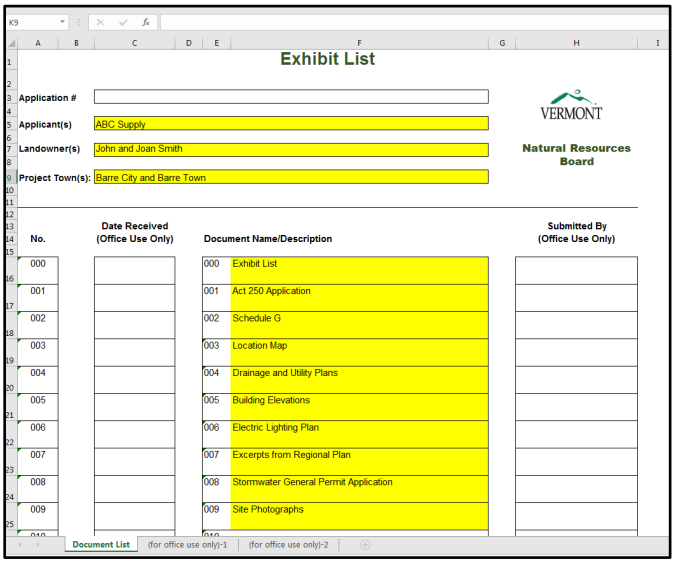

Exhibit List

Application #

Applicant(s) ABC Supply

Landowner(s) John and Joan Smith

Project Town(s): Barre City and Barre Town

VERMONT Natural Resources Board

No.	Date Received (Office Use Only)	Document Name/Description	Submitted By (Office Use Only)
000		000 Exhibit List	
001		001 Act 250 Application	
002		002 Schedule G	
003		003 Location Map	
004		004 Drainage and Utility Plans	
005		005 Building Elevations	
006		006 Electric Lighting Plan	
007		007 Excerpts from Regional Plan	
008		008 Stormwater General Permit Application	
009		009 Site Photographs	

Document List | (for office use only)-1 | (for office use only)-2

Acceptable electronic media (in order of preference for submission)

1. Uploaded to our FTP site (**instructions for FTP filing appear later in this document**). ***Note***: *Please do not provide us with a link to another FTP site, such as DropBox, as these external FTP sites are often not accessible nor give us the ability to download your files to our database*.

2. Saved on a flash/thumb drive, compact disc (CD rom), and/or digital video disc (DVD) and mailed to the District Office.

3. E-mailed to the District Office, depending on the size of your electronic files (***Note***: The size limit for an e-mail (including attachments) is 40 MB). Please check with your District Office staff before sending any files by e-mail.

File format

1. The Exhibit List must be submitted in its existing format (.xls). **Do not convert the Exhibit List file to PDF**.

2. All other files should be submitted in Adobe PDF format (.pdf). Microsoft Word (.doc) is acceptable (but discouraged) if Adobe PDF is not available. PDF guidelines are as follows:

   a) PDF is short for "portable document format." This format allows users to **universally view** documents regardless of operating system. By saving your files in PDF, any user of the Act 250 Database can view all files in an Act 250 application.

   b) Whenever possible, convert your documents to PDF directly from the word processing or engineering design program where the documents were created rather than scanning the paper version of the document.

   c) If you are unable to convert documents to PDF directly from the software program the document was created in and need to scan a paper document to PDF, **please make sure you enable Optical Character Recognition (OCR)** in the scanning program.

   d) For signature pages, that is, pages where your and/or other parties' signatures are required, you will need to print the signature page, sign and/or have your parties sign where indicated, and scan the fully signed paper document(s) to separate PDFs. OCR is not necessary for signature pages.

   e) If you are required to include a Municipal or School Impact Questionnaire with your application, print the Questionnaire(s), have the appropriate Municipal or School official sign the questionnaire(s), scan the paper questionnaire(s), and save each questionnaire as a separate exhibit in your application.

   f) Photographs may be submitted in JPEG format (.jpg), though PDF is preferred. For large files (i.e., those with extensive use of color and/or multiple photos or graphic images), please use settings such as "Reduce file size" or "PDF optimizer" in Adobe Acrobat or other scanning programs to help reduce file size while still maintaining adequate quality. Contact your District Office staff (http://nrb.vermont.gov/act250-program/district-staff-and-commissions) if you need more information on how to reduce file size.

Folder structure and files

1. An example folder, subfolder, and file set up is provided at the end of this section.

2. Organizing the folders:

   a) On your Desktop, create a folder with your project's name (e.g., ABC Supply construction project). Within this project folder, create another folder named **Application Documents**. Place all your application files in the Application Documents folder (see Example folder and file structure below, at the end of this section).

3. Organizing the files:

   a) Complete the PDF Fillable Application Form (http://nrb.vermont.gov/act250-permit), which includes Cover Sheets and Schedules.

   b) Each file in your application is termed an "Exhibit". Each file (i.e., Exhibit) will need to be listed in the Exhibit List.xls file. The Exhibit List is essentially a table of contents that tells our staff what documents you have included with your application. Fill out the Exhibit List (.xls file) so that it lists all your documents in numerical order. The below example contains a sample numbering scheme.

   c) Include all supporting documents (letters, reports, photographs, etc.), saving each document as a **separate** PDF file.

   d) Include all site plans, location maps, and engineering drawings. All plan sheets should be saved as **separate** files.

File naming convention requirements

1. All file names must be descriptive of the document contents. For example, a Visual Analysis Report could be named *Visual Analysis.pdf*.

2. File names may contain spaces, but the following characters are *not allowed* in any file names because they are not recognized by our database: # % & * : < > ? \ { | }

3. *File names must start with a three-digit number*. 000 is the first number and automatically assigned to the Exhibit List file. When numbering your files, assign 001 to the Application Form file, 002 to the Application Form signature page, and so forth, assigning numbers based on the next logical document in your application.

Following up with submittals and assignment of application number

1. Your District Office will assign an application number to your application within 1-2 days of application receipt. The District Office will e-mail you a Notice of Application with your assigned application number. When submitting additional documents for your application after your initial electronic submission, **be sure to reference the assigned application number**.

2. Save your supplemental electronic files in a subfolder again named **Application Documents** , except this time name the **main folder with the assigned application number and the date of submission (e.g., 100256 7-16-16**). See the second example below.

Example folder and file structure for your *first* submission

ABC Supply construction project	(main folder name)
Application Documents	(subfolder name)
000 Exhibit List.xls	(file name)
001 Act 250 Application.pdf	(file name)
002 Schedule G.pdf	(file name)
003 Herb Permit.pdf	(file name)
004 ACOE Authorization.pdf	(file name)
005 Distribution Standards.pdf	(file name)
006 Erosion Policy.pdf	(file name)
007 Forestry Goals and Practices.pdf	(file name)
008 Supp Info.pdf	(file name)
009 Wetlands Office Letter.pdf	(file name)
010 Location Map.pdf	(file name)

Act 250 Application: Electronic Submission Procedures

1) If you have uploaded your application to the FTP site, e-mail your District Office at the below e-mail address to inform the office you have placed your Act 250 Application on the FTP site, ensuring you indicate the name of your main electronic folder (e.g., ABC Supply construction project).

   or

   If you have e-mailed your application as an attachment or mailed it in on a CD, DVD, or thumb/flash to the District Office, no additional notification e-mail to the District Office is needed. Be sure to include a self-addressed stamped envelope if you would like the District Office to return your electronic media to you.

2) Complete the Schedule G Notice of Application Form and e-mail it the statutory parties (**one e-mail message should include all statutory parties' e-mail addresses, with a "cc" to the NRB District Office**) using your District's Statutory Party E-mail List found at http://nrb.vermont.gov/act250-permit, and post or cause to be posted the Schedule G Notice in the Town Office.

3) Mail the application fee, payable to "State of Vermont," to your District Office (address below), with a cover letter identifying the application.

4) When submitting additional documents after the initial application:

   a) Upload the additional documents to the FTP site using the same procedures you followed for the application upload, but this time name the main folder with the application number and date.

      or

      Load the additional documents onto a CD, DVD, or thumb/flash drive and mail to the District Office. Be sure to include a self-addressed stamped envelope if you would like the District Office to return your electronic media to you.

   b) Send an e-mail, copying all statutory parties on the most recent Certificate of Service (COS) issued by your District Office, notifying these parties that you have submitted additional documents, which will be posted to the Act 250 database (https://anrweb.vt.gov/anr/vtanr/Act250.aspx) by District staff. Alternatively, if your submission involves just one or two documents, you can e-mail the documents as attachments directly to all parties on the COS.

Electronic Submission via FTP

With a PC

1) Open **Windows Explorer** (*not to be confused with* Internet Explorer). **Windows Explorer** is easily accessed by right-clicking on the START button. Go to the location of the project directory folder that contains the subfolders and files (e.g., "Desktop" if you saved the folder to your desktop).

2) In the Address bar of **Windows Explorer**, type in ftp://ftp.anr.state.vt.us, then click on "Go". You will be prompted for a case-sensitive username and case-sensitive password. They are:

   Username: A250

Password: Simple1

3) Click “Log On”.

4) Move your main folder (i.e., ABC Supply construction project) to the FTP site by dragging and dropping into the open window of the FTP site ***or*** by making a copy of the folder and pasting it into the site. To copy and paste, right-click on your folder, click *Copy*, then right-click within the open space on FTP site and click *Paste*.

5) Send the District Office an e-mail stating the files for your application have been uploaded, indicating the name of the folder (e.g., ABC Supply construction project).

6) If you are uploading additional files for a pending Act 250 application, follow the same procedures as above, but name the main folder with the application number assigned by the District Office (e.g. 4C1234) and the date of submission (e.g., full main folder name: 4C1234 7-7-16).

Note: You will not be able to view the content of your documents once you have moved them to the FTP site but you can verify that you have moved them by opening the directory and subfolders.

With a Mac

1) Macs do not have software that facilitates FTP access and transfers. You can use the other alternatives to electronically submit your Act 250 application, as indicated in the *Acceptable electronic media* section above or fill in an electronic application via a kiosk at your District Office.

** **Contact your** District Office staff **with any questions** **

(http://nrb.vermont.gov/act250-program/district-staff-and-commissions**)**

District Office e-mail and physical address information

District no.	Act 250 district e-mail address	Physical mailing address
1 & 8	NRB.Act250Rutland@vermont.gov	440 Asa Bloomer State Office Building **Rutland**, VT 05701-5903
2 & 3	NRB.Act250Springfield@vermont.gov	100 Mineral Street, Suite #305 **Springfield**, VT 05156
4	NRB.Act250Essex@vermont.gov	111 West Street **Essex Junction**, VT 05452
5, 6 & 9	NRB.Act250Barre@vermont.gov	10 Baldwin Street **Montpelier**, VT 05633-3201
7	NRB.Act250StJ@vermont.gov	374 Emerson Falls Road, Suite 4 **St. Johnsbury**, VT 05819-2209