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12 . Conservation Zoning Districts

Overview

Conservation zoning districts can be used to preserve natural resources that could be affected by development. They typically encompass areas defined by the presence of one or more natural features such as blocks of productive forest land, important wildlife habitat, wildlife corridors and crossing areas, rare plant communities, high elevations, scenic ridgelines, steep slopes, wetlands, riparian and water source protection areas. A conservation district can limit development and impose standards to protect locally significant resources – for example, to avoid forest fragmentation, or to ensure that the design and siting of development minimizes adverse impacts to identified resources. Conservation goals can be achieved through “overlay” districts as well, depending on the type, location and extent of identified resources to be conserved; these may focus on particular resources, such as wetlands, or on resources that cross multiple zoning districts, such as wildlife corridors. (See *Chapter 14, Overlay Districts*).

Conservation districts are often designated to conserve high elevation forest resources, but can also be used to protect significant resources found in low-lying areas, such as important wildlife corridors and crossings, or rare communities such as sandplain or clayplain forests, or

Depending on a community’s goals and landscape, specific forest and wildlife resources may be better addressed in a conservation district rather than a separate “forest district.”

floodplain forests, which are typically more biologically diverse than higher elevation forests.

Conservation districts can also incorporate land that has been or is intended to be conserved under other programs (e.g., public lands, conserved lands, and land above 2,500 feet in elevation) as identified in the municipal plan, an open space plan, or related documents.

Of the 211 Vermont towns that have land use regulations, 51% (107) have conservation zoning districts.¹ Of these, only 49% mention wildlife, and only 29% review single family housing as a conditional use. This means that even communities that already have conservation zoning have opportunities to strengthen their regulations by adding definitions, siting standards and review standards that uphold the purpose of the district.

Common characteristics of conservation zoning districts include:

- **Lot area requirements that are tied to the resource management goals and purposes of the district** (e.g., lot sizes that correspond to viable farm or forest management). This may include large lots or forms of density-based zoning that are intended specifically to limit forest fragmentation.
- **Field verification of mapped resource areas when a development proposal is made**, to ensure that resources shown on available maps and inventories are identified and delineated on the ground at a specific site.
- **Low average development densities** that may also include clustering or locating new development near existing settlement to limit encroachments, site disturbance and resource fragmentation within conserved areas.
- **Limited uses that are compatible with and support resource conservation**. Examples include forest management, wildlife management, and outdoor recreation.
- **Exclusion of incompatible land uses**. Examples include most commercial activities or year-round housing.
- **Conditional use review of most uses** (including single family dwellings if allowed), and associated review standards intended to evaluate and minimize the impacts of development on important resources. Subdivision regulations should also incorporate standards specific to these districts and resources to limit forest parcelization and fragmentation in subdivision review.

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- **Setback and buffering requirements** to protect important natural resources such as wetlands, shorelands and riparian corridors, vernal pools, wildlife corridors, deer wintering areas, mast stands and rare, threatened, or endangered species.

Statutory Authority

24 V.S.A. §4414

The general purpose of agricultural, rural residential, forest, and recreational zoning districts is to “safeguard certain areas from urban or suburban development and to encourage that development in other areas of the municipality or region...” (24 V.S.A. §4414(1)(B)). Uses in these districts may be limited to identified resource management objectives (e.g., farming, forestry, outdoor recreation). They may exclude other types of land use and development, or allow only limited, compatible land uses (e.g., housing) at very low densities. In this way, conservation districts serve as a complement to other zoning districts that encourage Vermont’s compact downtowns, villages, and neighborhoods, and help preserve Vermont’s historic settlement pattern.

Implementation

Natural resource inventory maps, open space plans and, most importantly, town plan policies and implementation strategies provide the basis for implementing a new (or extended) conservation district.

Municipal Plan

Check municipal plan maps. Make sure your town plan includes or references relevant resource inventories and maps. Plans are not required to include resource maps, but for conservation and other zoning districts, like overlay districts, maps and inventories are very important. Check to see which natural resources are currently included on plan maps. Consider these questions: Are there natural resources that are missing, or information that needs to be updated? Have wildlife crossings been acknowledged and incorporated where appropriate? Are the future land uses, and potential development patterns, compatible with preserving the large forest blocks and other natural resources that are important to your community? Work with your regional planning commission and/or conservation commission to analyze threats and opportunities for natural resources, and ways to address them.

Include goals and policies in the plan about the town’s important natural areas. Plan goals and policies can help lay the groundwork for conservation districts by addressing resources such as:

- forest blocks, productive forest soils, important water resources;

- wildlife habitat and connectivity;
- rare, threatened, and endangered species;
- significant natural areas;
- deer wintering areas.

Specific plan policies regarding resource protection may also be used in other local, regional and state planning initiatives, and in Act 250 and Public Service Board (Section 248) proceedings. Town plans can also include actions, such as conducting a natural resources inventory or community values mapping exercise. (See *Chapter 4, Conservation Planning*.) And, plan policies associated with municipal infrastructure, roads and utilities should be coordinated with natural resource policies to ensure that areas targeted for conservation are not served by new or upgraded facilities that could foster development.

Identify proposed conservation districts in the town plan’s land use section, in related action items (e.g., zoning district updates, bylaw amendments), and generally indicate or reference the district on the plan’s proposed land use map. The land use section of the plan is required to include a proposed land use map, and to indicate “those areas proposed for forests, recreation ... public and semi-public uses, and open spaces reserved for flood plain, wetland protection, or other conservation purposes” (24 V.S.A. §4382). This, along with the action steps in the municipal plan, will help implement the plan’s goals and policies.

Zoning Bylaw

Define more specifically those area(s) or resources indicated in the plan to be included in the conservation district. Conservation districts may include undeveloped blocks of land, defined by property boundaries or natural features, that are not well-served by roads, water, and sewer. Some conservation districts are defined as “all land above a certain elevation,” to include fragile, high-elevation and/or predominately undeveloped areas with no or limited access to roads and utilities; this can be a helpful approach for defining important forested areas. Other conservation districts may include lower elevation areas, with district lines drawn to include various features like mapped forest communities, deer wintering areas and wetlands, or all land that is a specified distance from public roads. For a conservation district to be successful, the protected resources must be clearly defined and mapped so that they are easy to identify on the ground. This can be done via clear descriptions in zoning bylaw, and detailed maps based on town-specific natural resources inventories. (See *Chapter 18, Writing Clear Definitions* for more information.)

Decide on lot sizes. In Vermont, minimum lot sizes in conservation districts generally range from 5 acres to 50 acres, although significantly larger lot sizes are common in other states. While smaller (5 to 10 acre) lot sizes are often



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perceived as preserving a rural, open feeling, lots of this size can actually undermine the purpose of a conservation district if lot area requirements result in unnecessary parcelization and resource fragmentation. Lot sizes should be determined primarily by the type and extent of the resource(s) to be protected, and by considering existing lot sizes.

Develop review standards and processes. Development that is not carefully sited with respect to features on the parcel can also undermine the purpose of the district. For example, long driveways can fragment resources, and development that is too close to streams or wetlands can lead to runoff or erosion problems. Even with larger lots, careful siting of development is important to minimize impacts to local resources. Standards may include measures that:

- limit development density and require the clustering of development to avoid or minimize impacts on sensitive resources;
- require undisturbed buffer areas around protected resources;
- limit the length of driveways and utility corridors and require that they follow existing linear features (e.g., rights-of-way or forest edges) and natural contours to limit encroachment and avoid resource fragmentation;
- require the designation of “building” or “development” envelopes that limit the extent of development on the lot to ensure that activities incidental to the use, including clearing and yard area, do not adversely affect identified resources;

- require management plans and monitoring programs for protected resources and associated buffer areas;
- prohibit any placement of fences, walls, or substantial changes in grade that would disrupt the movement of wildlife within a wildlife corridor.



Courtesy Vermont Fish & Wildlife Department

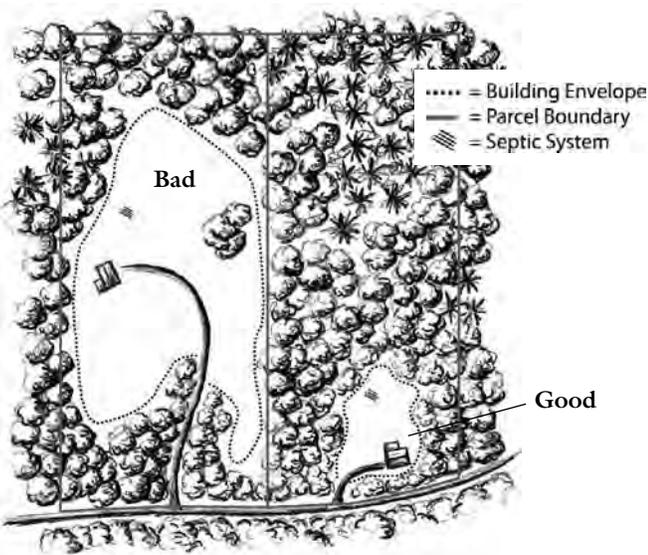
These standards can be applied as district standards, which would apply to all development in the district, or conditional use standards, applying only to conditional uses. (See *Case Studies: Examples of Development Review Standards*.) Standards of this kind may also be used in subdivision regulations.

Decide on a review process for obtaining site-specific information. To verify that the resources on a specific parcel are actually present and ensure that they will be protected, the review process for development in a conservation district should include the collection of site-specific information. This helps guide development on individual sites, and can be done in many ways: by requiring the applicant to hire a consultant, conducting site visits, having the town pay for a site-specific evaluation, consulting with the Department of Forests, Parks, and Recreation and/or the Vermont Fish & Wildlife Department (as their availability allows), or engaging the local conservation commission to review the site and make recommendations to both the applicant and the town. Many communities will find it important for regulations to balance the need to acquire additional information with the costs to the landowner.

Write clear definitions. Include clear definitions in your zoning bylaw to show what resources are being protected and

Building Envelopes

The larger building envelope (left) clears a large amount of forestland, while the more limited envelope (right) minimizes the impact of development.



More Information

The Land Use Planning and Implementation Manual, Topic Papers 19, *Open Space & Resource Protection Regulations* and 30, *Zoning Regulations* provide a more detailed description of how these regulations function and for what purpose. <http://vpic.info/ImplementationManual.html>

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to what level of protection. This is important for reducing any vagueness in the zoning bylaw (a vague bylaw can be difficult to interpret and enforce and, if challenged, may not stand up in court). For example, of the 211 Vermont towns with zoning bylaws, only 2% define “wildlife habitat.” Most zoning bylaws also lack definitions for key resource terms such as “fragmentation,” “significant wildlife habitat,” “steep slopes,” “core forest,” and “vernal pools.” (See *Chapter 18, Writing Clear Definitions.*)

Things to Consider

Generate community support. Creating a conservation district that limits the type, amount and density of development in designated areas can be controversial. It’s important to build on community values, and to work with affected landowners. Make sure that the public process is open and includes education about why resource conservation is important, and that there’s community support (which should be expressed in the town plan) to protect locally significant resources, including forestland and wildlife habitat.

Case Studies

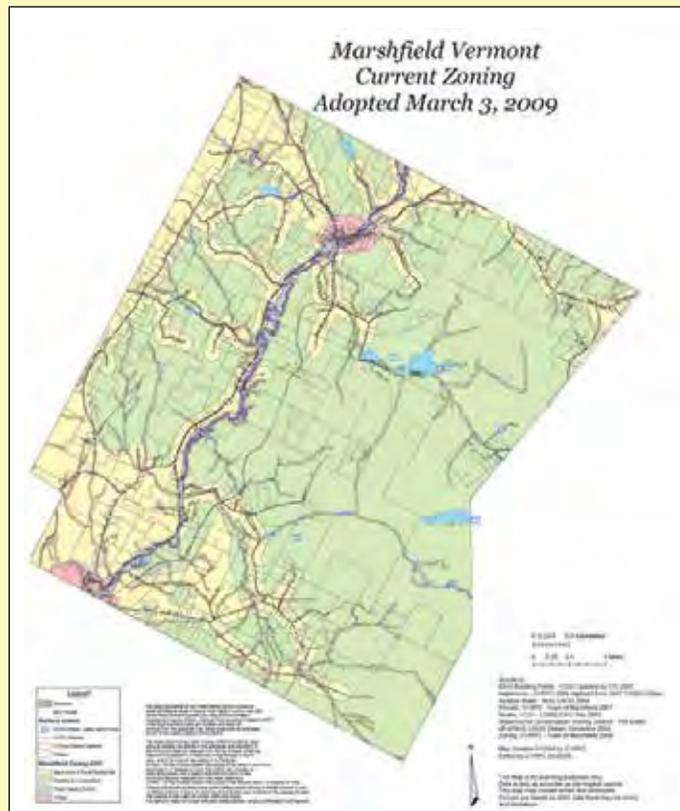
Conservation Zoning Districts: Marshfield, VT and Bolton, VT

The following conservation districts in Marshfield and Bolton actively limit development, and include clear review standards to evaluate development. While other aspects of the bylaws may differ, these two components are key to a successful conservation district.

Marshfield

Marshfield’s “Forestry and Conservation District” may be unique in Vermont in that it covers the majority of land in town. As shown on the zoning map and described in the zoning regulations, this district includes the “largely unsettled part of Marshfield outside of those areas that have traditionally served for residential and agricultural uses. The district provides vital wildlife habitat and significant opportunities for outdoor recreation, in addition to its very important function as a woodland” (p.10).

Permitted uses in this district include: agriculture,



forestry, outdoor recreation (public or private non-structural), wildlife refuge, reservoir and camps. Residential uses are also allowed, but only within an approved planned unit development (PUD). Nonresidential buildings, recreational bridges, parking areas and development on slopes between 15% and 25% require conditional use review. Development is prohibited on slopes greater than 25%.

Marshfield protects forest resources within this district through PUD provisions in the regulations. Residential uses within a PUD are allowed at a minimum density of one unit per 10 acres; at least 50% of the land must

be permanently reserved as open space. In addition, the PUD must be designed so that significant portions can be kept in tracts suitable for forestry or agriculture.

Marshfield’s zoning and subdivision regulations are available on the town website: <http://www.town.marshfield.vt.us/>.



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Case Studies: Marshfield and Bolton, VT, *continued*

Bolton Conservation District

The Town of Bolton's Conservation District is more limited than Marshfield's – it includes only permanently conserved land and land over 2,500 feet in elevation. However, it is also more restrictive in the type and amount of development allowed. The district's purpose is to “protect Bolton's generally remote and inaccessible mountainous areas – which include significant headwaters and aquifer recharge areas, unique and fragile natural areas, critical wildlife habitat, and mountainsides and ridges characterized by shallow soils and steep slopes – from fragmentation, development, and undue environmental disturbance, while allowing for the continuation of traditional uses such as forestry and outdoor recreation” (p. 19).

Permitted uses in this district are limited to agriculture, forestry and wildlife management. Some ski area facilities (e.g., trails, lifts), primitive campsites, passive outdoor recreation and telecommunication towers are allowed, subject to conditional use review. However, no residential or other buildings are allowed within the district. The minimum lot size is 25 acres, to ensure that parcels remain eligible for enrollment in the state's Current Use Program.

Various standards guide development in this district to minimize development impacts. Specific *supplemental standards* apply to subdivisions and allowed development:

- A structure within the district must be located within a designated building envelope approved by the DRB under subdivision review or conditional use review.
- A structure(s) in the district, excluding ski lifts or telecommunications facilities, shall not:
 - have a total footprint area greater than 2,000 square feet,
 - be connected to or served by off-site utilities,
 - be sited on exposed ridgelines or be visible from public vantage points, including public roads.

The district's *conditional use standards* state that the Development Review Board may:

- limit the extent of site clearing and disturbance, including the removal of existing vegetation;
- require screening or reforestation as necessary to minimize the environmental or visual impacts of development; and
- require the submission of environmental or visual impact assessments, lighting plans, and forest, wildlife habitat, erosion control and/or stormwater management plans for board review and approval.

In addition, access roads and driveways in this district must be designed and located to:

- share existing rights-of-way and/or follow existing linear features (e.g., tree or fence lines),
- minimize their visibility as viewed from public vantage points, including roads,
- minimize the extent and number of stream crossings, and avoid the fragmentation of wetlands, significant wildlife habitat, natural areas and timber stands.

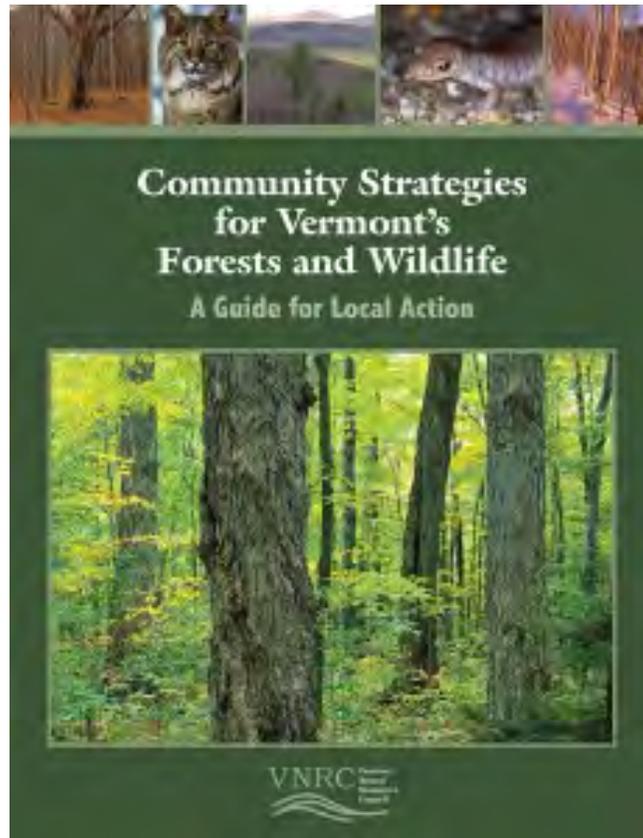
There are also requirements that apply when land in this district is subdivided. While the regulations allow the DRB to require the submission of management plans, according to the DRB chair these have not been required to date, since the requirements for such plans have not been clearly defined in the regulations or application materials. Instead, the DRB has relied on recommendations received from the Vermont Department of Fish and Wildlife to address development impacts in this district – including ski lift and trail development in the vicinity of Bicknell Thrush habitat.

Bolton's Conservation District regulations are available at: <http://www.boltonvt.com/planning/UnifiedLandUseRegs/ArticleIIZoningDistricts.pdf>.



This chapter is part of a larger publication called ***Community Strategies for Vermont's Forests and Wildlife: A Guide for Local Action***. You can download the entire publication or individual chapters (including the endnotes, resources, and credits page) for FREE at:

www.vnrc.org/programs/forests-wildlife/guide/



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