














BYLAW SECTION	TEXT	PLAN	VSA	BPG
Table of Contents	<u>General Observation:</u> Navigation of this document is made more challenging because it only uses a 2-level hierarchy. Better organized regulations deploy a 3 or 4-level hierarchy.			
ARTICLE 1: ENACTMENT, PURPOSE				
101: Enactment	Article 1 needs major revisions so that it clearly states authority, purpose, equal treatment of housing, etc.		🚩	
102: Purpose	<p>This mixes administrative procedure with authority but doesn't state why Peacham has land use regulations. Purpose statement references statute (Ch117 orderly development, health and welfare... etc.), and Peacham Town Plan.</p> <p>Move exemptions to a separate section (which should include Agriculture and Forestry as largely exempt from zoning under statute).</p> <p>Include procedures enabling the ZA to review any development to confirm exemption.</p>			
103: Application	<p>Existing statement says in very brief terms what does and does not require a permit. It is useful to expand this by creating 2 sections: i) what requires a permit and ii) what does not. See below:</p> <p>Unless specifically exempted in Sub-chapter 104, all land development within the Town of Peacham requires a zoning permit or subdivision approval issued in accordance with these regulations. Land development means:</p> <p>(1) The division of a parcel into two or more parcels, or any other change in the location of lot lines;</p> <p>(2) The construction, reconstruction, demolition, structural alteration, conversion, relocation or enlargement of any structure;</p> <p>(3) Mining, excavating or filling of land; or</p> <p>(4) Any change in, or extension of, the use of land or a structure.</p>			
ADD 104 Exemptions and Limitations	<p>Include exemptions and limitations covering such applicant and potential complainant questions as:</p> <p>1) Interpretation</p> <p>2) Overlay Districts</p> <p>3) Exempt Land Use and Development Activities The list of potential exemptions could include: emergency repair and stabilization, normal maintenance and repair, demolition [scale of activity; a fence is OK a house needs a permit], interior alterations, well and septic system, landscaping, grading and excavating, pre-developemnt sitework, pond construction/modifications [under a certain size], fences/walls, fuel tanks, mechanical equipment, swimming pools, unroofed patios/decks, accessibility structures, accessory structures [max. size], outdoor light fixtures, holiday light displays, solar energy devices, antennas, telecommunication equipment, electrical or communication distribution poles, public art, home occupations, farm structures.</p>			





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ARTICLE 2: ZONING DISTRICTS AND MAP				
201: Districts	Rural, Village, Shoreland 1, 2, Agricultural Overlay, Wellhead Protection Overlay This section should include statement explaining the need for overlay areas (unique areas that require special consideration) which are shown in the official zoning map. Special flood Hazard Area (SFHA) and Fluvial Erosion Hazard Zone (FEHZ) should be included in overlay areas list.			
202: Zoning Map	Update the SFHA and FEHZ reference. There are no Digital Flood Insurance Rate Maps (DFIRMs) produced by FEMA for Peacham so flood information fro inclusion in maps may be limited.			
203: Interpretation of boundaries	Should detail ZA working with surveys stamped by a licensed VT surveyor, and that any lot line adjustment does not automatically amend a zoning district boundary. The ZA should interpret the survey. This constitutes an 'action' and thus can be appealed (to the DRB).			
ARTICLE 3: ZONING DISTRICTS				
301:	The existing language relates to the material missing in section 103 and the (suggested) section 104. Move/merge the language found here with section 104 and then provide a brief explanation of the purpose of the regulations which is to establish districts, uses and administrative procedures: These regulations establish the following base zoning districts as shown on the Official Zoning Maps and described in section 302 through 307: Rural District (RD) Village District (VD) Shoreland One (SL1) Shoreland Two (SL2) Agricultural Overlay (AO) Wellhead Protection District Overlay (AO)			
	ZA can only permit 1 or 2 'family' units (and associated uses and structures) all other development requires site plan approval. Consider broadening scope of administrative approval (see below).			
	Update language (replace 'family' with 'dwelling') -- describe the structure (dwelling) not the residents (e.g., family). Zoning regulates structures for occupancy, not the occupants directly.			

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302: RURAL DISTRICT				
Purpose	<p>Covers all lands not part of Village District, Shoreland 1 or 2.</p> <p>This does not communicate community expectations or policies of town plan. Affirmative statements describing the rural district and why it should be zoned (to protect agriculture and forestry, working landscapes etc.)</p>			
Uses	<p>ADUs appear as both 'permitted' and 'conditional'. Conditional use review is activated whenever existing height or floor area is expanded.</p>			
	<p>Statute now permits 2 dwelling units (du) anywhere a single du is permitted. Enabling Better Places Guide (EBPG) recommends permitting 3 and 4-du structures anywhere a 1-du is permitted.</p> <p>Consider administrative approval for 1 to 4-du anywhere dimensional standards are met. Applications for 3-4 dus should be subject to site plan review.</p>			
	<p>'farm-stand' definition is not consistent with Agency of Agriculture & Markets (AAM) which is relied upon in statute.</p> <p>Consider replacing with accepted definition.</p>			
	<p>Consider creating 'forest recreation' and/or 'shoreland conservation' districts because there is more than 6,500 acres of state forest, with significant frontage on some ponds. The 7 mapped ponds have settlement patterns that are not 'rural'. Zoning districts can be specifically designed to regulate this (mostly) seasonal residential use.</p>			
Dimensional Standards	<p>Minimum lot size of 2 acres is small and will not prevent rural sprawl. Most parcels are much bigger. HOME Act mandates that 2-dus are permitted anywhere a single-du is, depending on soils and topography larger lots may be needed to accommodate 1 or 2-du, well and wastewater system(s).</p> <p>Side and rear setbacks are small for genuine rural use (noise, dust, odor, visual impact).</p> <p>Mandating conservation subdivisions in the rural district (avoiding/minimizing impact on mapped ag. soils etc.) can be effective in minimizing sprawl.</p> <p>Requiring development envelopes be shown on application plans (minimizing disturbance of existing rural lands) is also effective. PC can set envelope size and attributes (slope etc.) to minimize impact.</p>			

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303: VILLAGE DISTRICT				
Purpose	<p>Village District contains Peacham Corner/Peacham Village, South Peacham, East Peacham.</p> <p>Existing text is a list of locations. Below is an example purpose statement:</p> <p>This does not communicate community expectations or policies of town plan. Affirmative statements describing the village district and why it should be zoned (maintaining a mix of uses in a well defined compact area, preserving the traditional settlement pattern, protecting and enhancing rural character, historic structures).</p>	<p>p29</p> <p>p30</p> <p>p38</p> <p>p79</p>		
Uses	<p>ADUs appear as both 'permitted' and 'conditional'. Conditional use review is activated when existing height or floor area is expanded.</p> <p>Statute now permits 2 dwelling units (du) anywhere a single du is permitted. The Enabling Better Places Guide (BPG) from Vermont Department of Housing & Community Development (DHCD) recommends permitting 3 and 4-du structures anywhere a single du is permitted.</p> <p>Consider administrative approval for 1-du to 4-du anywhere dimensional standards are met.</p> <p>Farm-stand (when correctly defined) cannot be a conditional use, it is allowed. Amend definition to match 10 VSA § 6001.</p> <p>Small scale seasonal sales (e.g., cut flowers, preserves, fruit & veggies) should be permitted as accessory uses or structures.</p>	<p>p29</p> <p>p30</p> <p>p38</p> <p>p79</p>		
Dimensions	<p>Half acre minimum parcel size is unrealistic without municipal water and wastewater service.</p> <p>Rear and side setbacks are excessive for village district (predominantly residential).</p>	<p>p29</p> <p>p30</p> <p>p38</p> <p>p49</p> <p>p79</p>		

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304: SHORELAND 1				
Purpose	<p>Purpose of district appears to be minimizing potential water quality impacts from new residential development. Only residential uses are permitted.</p> <p>Consider the desired settlement pattern, recognizing the sensitive environment and town plan policies. Provide an affirmative statement describing the district and the desired pattern of development.</p>	p49 p51 p79		
Uses	<p>Peacham and Mud Ponds are the most developed. The other 5 ponds have very little residential/seasonal development and the shoreland frontage consists of a small number of large parcels with minimal residential development. Osmore Pond is entirely within the Big Deer State Park, part of the Groton State Forest. About a third of frontage in Mud Pond is also part of Big Deer State Park (within Groton State Forest).</p> <p>The observed existing settlement patterns shows the need for zoning district(s) that allow uses consistent with the key natural resources (ponds, state forest) and reflect any long-term plans for the Big Deer State Park. This could be more than seasonal camps and year-round residential structures.</p>	p49 p51 p79		
Dimensions	<p>Minimum parcel size has been set without accounting for the area needed for permitted potable water, wastewater, stormwater and any structure (e.g., Mud Pond where several parcels are well under 0.5-acre). In effect state issued potable water and wastewater permits are regulating land development -- not the zoning regulations. The existing structures cannot be expanded or parcels redeveloped without triggering both permits. The non-conforming parcels are too small to accommodate replacement wells and wastewater systems. The only permitted development is residential, which is not broad enough.</p>	p39 p49 p51 p79		
305: SHORELAND 2				
Purpose	<p>See comments for §304 (above).</p>	p49 p51 p79		
Uses	<p>See comments for §304 (above) although issue of Osmore Pond and responding to any plans for Big Deer State Park would be more urgent in this district.</p>	p49 p51 p79		
Dimensions	<p>Minimum parcel size has been set without accounting for the area needed for permitted potable water, wastewater, stormwater and any structure. Most of the parcels are larger than the minimum required. In effect state issued potable water and wastewater permits are regulating land development -- not the zoning regulations. The effective minimum parcel size is likely to be larger than the 2-acre minimum. The only permitted development is residential, which is not broad enough.</p>	p39 p49 p51 p79		

BYLAW SECTION	TEXT	PLAN	VSA	BPG
306: AGRICULTURAL OVERLAY				
Purpose	<p>References protection of agricultural soils and limiting density of residential development while still enabling “affordable lots” of 2-acres to be subdivided and sold. Subdivisions of 3 or more parcels require use of PUD provisions.</p> <p>Goals of agricultural protection and ensuring availability of 2-acre ‘affordable lots’ are in conflict with each other. Consider eliminating or improving rural standards. PUD provisions in existing bylaw are really working as a stand-in for subdivision regulations. But the PUD section does not have clear standards the DRB can use to deny an application or impose conditions that would prevent rural sprawl (or loss or rural landscapes).</p> <p>Procedural details should be removed from purpose statement.</p>	p39 p49 p79		
Uses	<p>Same as rural. Except (*) additional ‘criteria’ are applied for 1-du on applications on parcels over 10-acre which then triggers conditional use approval. Based on the information required for a permit the ZA will not have adequate information to determine if the stated criteria are met. Technical assessments regarding impacts on water resources of the state (including headwaters) or existing water supplies are beyond the authority of the ZA. A stronger defense of agricultural use is needed to protect lands traditionally used for agriculture from residential development. Likely parking impacts of residential use are no greater than existing uses(s). Other aesthetic criteria are subjective, with no supporting standards and would likely not survive challenge.</p>	p39 p49 p79		
Dimensions	Same as rural.			
307: WELLHEAD PROTECTION				
Purpose	<p>Protection of well providing village drinking water supply provided by Peacham Fire District #1. Statement should reference Fire District.</p>	p79		
Uses	OK			
Dimensions	n/a			
ARTICLE 4. GENERAL PROVISIONS				
401.1 Dwelling Lots	<p>Language is unclear (“from the shoreline to the <u>end of</u> the 50 foot setback”). The only time you could require compliance is with the issuance of a permit, therefore ‘encouraging’ has no meaningful effect.</p> <p>Consider making this a condition for new lots and/or new development on an existing lot.</p>			

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401.2 Timber Harvesting and Vegetative Buffers	<p>Update this section AMPs have been updated (August 11, 2018). <i>Table 4: Minimum Forest Buffer Widths</i> now describes buffer width as a function of slope of land between Skid Trails, Truck Roads or Log Landing and stream. See: https://fpr.vermont.gov/sites/fpr/files/Forest_and_Forestry/Forest_Management/Library/FullDocument-7.29.pdf</p> <p>How does the town enforce this provision? If it doesn't, and/or does not have the resources delete it.</p>	p39 p49		
405: Farm Structures and Practices	<p>Update Accepted Agricultural Practices (AAP) to Required Agricultural Practices (RAPs). Recommend replacing the requirement that a person notify the "Town of Peacham" with a provision requiring property owners demonstrate to ZA in writing that the proposed development is exempt because it meets definition of RAP. ZA then maintains this record. This will facilitate any enforcement action subsequently (where property owner exceeds exemptions under RAPs).</p>	p39		
406: Temporary Uses and Structures	<p>Temporary permits may be issued for 'non-conforming uses incidental to construction projects' for less than 1-year, with removal of structure a requirement. Temporary structures for housing farm and forest workers must be removed 'after operation is completed'</p> <p>Should specify and limit the type of 'non-conforming structures for the purpose of construction (e.g., storage units, campers for owner occupation while construction is in progress). Alternate 'uses' are not appropriate.</p> <p>Farm and forest worker housing is subject to 9 VSA Chapter 137 which provides tenant protections to workers with some specific exemptions to employers. Farm and forest worker housing are not farm structures they are subject to zoning regulations, unless explicitly exempted by these regulations.</p>	p39		
407: On Site Sewage Disposal	<p>New dwellings will have a wastewater system that meets state environmental protection rule, WW plans must be submitted with the zoning permit application..</p> <p>As written this provision is too narrow and does not cover other uses or structures (e.g., light industry). Nor does it include additions or extensions to existing structures (e.g., new bedroom for existing dwelling), or uses (home occupation). Any applicant for a zoning permit must submit a copy of an approved state WW permit prior to construction commencing (not just the plan -- which may not have been approved). See 24 VSA §4414 (13) .</p> <p>Consider broadening this to include any expansion of existing uses (e.g., from 3 to 4 bedrooms, or an ADU) and any additional structures or new uses depending on an existing WW system (and permit) .</p>	p79		

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413: Limitations	<p>List of uses with limited review as established by statute (24 VSA Ch. 117 § 4413). Act 47 (HOME Act) adds the following: Emergency shelters with no limitation on daily and/or seasonal hours of operation. This section should reference statute.</p>		🚩	
414: Alterations & Adjustments	<p>No changes to exterior dimensions outside SFHA do not need a zoning permit. Add Special to "Flood Hazard Area". Make clear whether roof alterations (adding a dormer) require a permit.</p>			
417.1, 2: Subdivision	<p>Subdivisions are considered a conditional use, with no other requirements. Consider including subdivision standards and procedures.</p>		🚩	
418: Accessory Dwelling Units (ADUs)	<p>ADU is a conditional use. See 24 VSA § 4412 (E) a municipality must allow an ADU as a permitted use anywhere a single du is permitted (SFHA or fluvial erosion hazard zones are exempted). The owner may reside in either unit on the lot.</p>		🚩	🚩
Article 5: Flood Hazard Regulations and Article 6: Definitions for Flood Hazard Regulations				
507.1.2	<p>Requires an ANR project review sheet accompanying the proposal. ANR no longer does project review sheets.</p>	p50		
Article 6	See Article 12: Definitions (below)			
ARTICLE 7: NON-CONFORMING USES & STRUCTURES				
	No issues identified in this article.			
ARTICLE 8: SPECIAL PROVISIONS				
801.3: Review Criteria	<p>DRB may consider and impose "appropriate conditions and safeguards" This and following sections do not distinguish between review criteria for site plan versus conditional use review, this section includes items such as use of renewable energy resources that need more specific criteria for review. Site Plan review should cover: parking and loading, access and circulation, landscaping and screening, lighting, signs, and stormwater. Conditional use review should cover: capacity of community facilities and utilities, character of the area (affordable and small-scale multi-unit housing is exempt), natural resource protection and energy conservation.</p>		🚩	🚩

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801.4: Duration of Site Plan Approval	<p>Site Plan approval expires after 1 year (with a possibility for extension if applicant is waiting on Act 250 application).</p> <p>See 24 VSA § 4449 (4) which stipulates 2 years as a the minimum period following the date of approval (i.e., the DRB decision date).</p>		🚩	
802: Conditional Use	<p>Conditional use applies to those uses identified as needing to meet additional requirements (in addition to applicable dimensional requirements).</p> <p>There is no distinction between review criteria identified in 801.3 (above) and here. These need to clearly distinguished from each other. The criteria as written do not provide clear enough specific guidance to applicant or the DRB.</p>		🚩	🚩
802.2 Supplemental Considerations	<p>Additional “considerations and performance standards”.</p> <p>No authority to consider (A) Economic benefit, (B) adjust dimensional standards. (E) and (F) duplicates site plan review.</p>		🚩	🚩
ARTICLE 9. PLANNED UNIT DEVELOPMENT				
901: Planned Unit Development	<p>Citing 24 VSA § 4417 identifies RD, VD and AO as districts where PUDs can be located.</p> <p>This section needs to be completely updated!</p>	p29 p30	🚩	🚩
901.1: Purpose	<p>PUD is to encourage flexibility of design in development of land, facilitate adequate and cost efficient provision of streets and utilities, preserve natural and scenic qualities of open space and provide a mix of housing.</p>			
901.3: Standards for Review	<p>Lists general standards addressing: consistency with plan, overall density no greater than normally allowed, residential 1-du up to multi-du, time-frame for development to allow for adequate provision of facilities and services.</p> <p>This amounts to an ad-hoc set aside of regulations without criteria.</p>		🚩	🚩
901.4 Open Space	<p>Describes potential open space uses for ‘community use’ and empowers DRB to condition ownership, use and maintenance.</p> <p>This section does not set out a formula for requiring open space, define ‘community’ (all of Peacham just residents of PUD?) or how applicant should determine lands for open space (e.g., avoid open space being jut unbuildable land or stormwater treatment area).</p> <p>Consider mandating at least 60% dedicated to open space and include resource protection standards. Criteria should be include to guide applicant and DRB.</p>			

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ARTICLE 10: ADMINISTRATION & ENFORCEMENT				
	This section lacks criteria for issuance of waivers and variances		🚩	🚩
1001.1: Conformance with Zoning Regulations	Receive permit applications for <i>building construction</i> ... Suggest clarifying that Peacham issues zoning permits only and does not enforce a building code which would rely on inspections of materials and methods of construction.			
1002.2: Construction Inspections	Inspect construction monthly to document conformance with these regulations. Why? Where are the records maintained? Once the physical dimensions of new construction are established, and the permitted use can be verified what would be the need for further inspections?			
1002.3: The Issuance of Permit	Approved permits are voided if not “substantially commenced within 12 months.” This does not address how long the project can go on for. Suggest using Certificates of Occupancy to close-out permits and allowing 2 years to complete the permitted work.			
1007.2: Interested Persons	Uses definition of interested person from statute. Statute has been amended. This section should be revised.		🚩	
1008.3: Time Extensions	Applicable time periods may be extended for “delay in receipt of full application requested or due to continuation of a hearing.” This is very vague and unclear as to whether the applicant can request an extension, who makes the extension decision, how the decision is recorded and what happens if the extension expires. This section should cover conduct of ZA and DRB. If an application is submitted but deemed incomplete by the ZA the application should be denied (with applicant being able to appeal that decision to the DRB). The DRB should extend to a “date certain” and specify why and what material needs to be forthcoming.		🚩	
ARTICLE 11: AMENDMENTS, INTERPRETATION, EFFECTIVE DATE				
	No issues identified in this article.			
ARTICLE 12 DEFINITIONS				
PERSON	Replace with: includes natural and legal persons, where a legal person is a public or private organization.			
SHALL	Replace with: MUST. ‘Shall’ is ambiguous. Must is now preferred to impose requirements https://www.plainlanguage.gov/guidelines/conversational/shall-and-must/			

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DWELLING, ONE FAMILY MULTI-FAMILY TWO FAMILY	Replace 'family' with UNIT in all instances where it occurs in text.			
FAMILY	Delete. If needed Reference HOUSEHOLD(S)			
LETTER OF MAP AMENDMENT (LOMA)	This is duplicated (see Art. 6)			
SUBSTANTIAL IMPROVEMENT	This is duplicated (see Art. 6)			
VARIANCE	Correct statutory citation is: 24 VSA § 4469 Note: Technically the process calls for variances only to be granted under appeal of a ZA decision. Strict requirements apply: (1) Unique physical circumstances or conditions (2) These circumstances or conditions make it impossible to develop the property and conform to the bylaw (3) Unnecessary hardship has not been created by the appellant (4) The variance if authorized will not alter the character of the neighborhood (5) The variance if authorized is the minimum that will afford relief, and be the least deviation from the bylaw and the plan ALL 5 criteria must be met to grant a variance.		