

Chapter 27

Conservation Areas

This chapter establishes standards that protect and preserve significant natural, scenic, and fragile areas.

27.1 Purpose – Authority

27.1.1 What are Conservation Areas? There are seven distinct Conservation Areas in Williston: 1) significant wildlife habitat areas; 2) areas containing uncommon, rare, threatened, or endangered species; 3) unique natural communities; 4) farmlands of local importance, 5) scenic viewsheds, 6) special flood hazard areas (see WDB Chapter 28), and 7) streams, wetlands, lakes, and ponds (see WDB Chapter 29).

27.1.2 What is the purpose of these standards? The protection of Conservation Areas will provide significant benefits for soil conservation, water quality, groundwater recharge, biological diversity, and the visual character that defines Williston. These standards will prevent incompatible development from impairing the ecological functions of these areas and reducing the benefits they naturally provide to humans and wildlife. This chapter establishes permit requirements and development standards designed to minimize and avoid undo adverse impacts to these resources. Development may be acceptable in Conservation Areas to the extent that it is compatible with the goal of protecting the physical features, ecological functions, and biodiversity they provide.

27.1.3 Under what authority does the town adopt these standards? These standards are adopted under the authority of 24 V.S.A. § 4302(c)(5), § 4382(a)(5), § 4411(b)(3)(F), and § 4418(1)(D), which allow for the protection and preservation of significant natural, scenic, and fragile areas.

27.2 Applicability

27.2.1 What activities are subject to these standards? These standards apply to any development that is located within the boundaries of one or more designated Conservation Areas and for which a permit is required by this bylaw. The Administrator may refer any projects that require a permit to the Conservation Commission for review and comment under these standards.

27.3 Permitted Uses and Exemptions

27.3.1 What uses are permitted in Conservation Areas? The allowed land uses are as provided for in the underlying zoning district, but are subject to review procedures and development standards provided in this chapter.

27.3.2 What activities are exempt from these standards? All development activities identified as exempt under WDB Chapter 4 are exempt from review requirements and standards of this chapter. Additional exemptions specific to each type of Conservation Area are presented in WDB 27.5 - 27.9 below.

27.4 General Standards. These general standards apply to all Conservation Areas. Additional standards specific to each type of Conservation Area are presented in WDB 27.5 - 27.9.

27.4.1 Do the general standards of this bylaw apply to development in Conservation Areas?
Yes. Development in Conservation Areas must, unless specifically exempted, comply with all

standards established in Chapters 13-29. In addition, development in Conservation Areas must comply with all standards specific to the underlying zoning district where the property is located. Where the standards adopted in this chapter and other standards established by this bylaw differ, the most restrictive standard applies.

27.4.2 Landowners Right. Conservation Areas must be protected to the extent consistent with the landowner's right to beneficial use of his or her property. This means that if a property has only Conservation Areas or has no other lands physically suitable for development, the Conservation Commission and the DRB will work with that landowner to either effect a transfer of development rights, as provided by Chapter 19 of this bylaw, or to reconfigure the development and/or designate open space in a way that minimizes consumption of lands that should be protected.

27.4.3 Designate Open Space. Open space designation may be required for any development for which a discretionary permit is required. Open space shall be designated and configured so that the open space encompasses, to the maximum extent possible, Conservation Areas that are contiguous to Conservation Areas on adjoining properties, and serves to limit encroachment into the Conservation Area. Open space must be permanently protected using any of the three methods listed in WDB 31.7.6.

27.4.4 Avoid Undue Adverse Impact. Alternative site designs may be required, alternative locations for the development may be required, and the minimum amount of land required to be set aside as open space may be increased, if necessary to avoid undue adverse impacts to Conservation Areas.

27.5 Significant Wildlife Habitat Areas (SWHA)

27.5.1 What are Significant Wildlife Habitat Areas (SWHA)? Those natural features that contribute to the survival and/or reproduction of the wildlife of Williston and surrounding communities. This shall include: (1) core habitat; and (2) wildlife connectivity corridors.

27.5.2 What is Core Habitat? A combination of several different wildlife habitat types combined to form a unit of relatively continuous wildlife habitat. Areas characterized as Core Habitat generally consist of relatively large forested areas that might contain a combination of early succession habitats; forested riparian areas; wetlands and vernal pools; deer wintering areas (i.e. deeryards); mast stands; ledge, talus, or cliff habitats; and habitat identified by the Vermont Department of Fish and Wildlife as either significant wildlife habitat or necessary wildlife habitat in accordance with 10 V.S.A. Sec. 6086(a)(8)(A).

27.5.3 What is a Wildlife Connectivity Corridor? A route that permits the direct travel or spread of animals or plants from one area or region to another, either by the gradual spread of a species' population along the route or by the movement of individual members of the species. Generally, such areas are characterized by undeveloped forested and riparian corridors, including forest cover reaching to road rights-of-way, which serve to link large tracks of unfragmented core habitat. In Williston, the corridor was designed to accommodate bobcat, fisher, mink, four-toed salamander, wood frog, smooth green snake, and wood turtle.

27.5.4 What are the boundaries of the SWHAs? The boundaries of SWHAs are shown on the official map titled "*Significant Wildlife Habitat Areas*," which is available for review at the Williston Planning and Zoning Office.

27.5.5 What is the purpose of protecting Significant Wildlife Habitat Areas? This section establishes development standards designed to: guide development in a manner that maintains large blocks of forest and areas of contiguous habitat; protect distinct types of habitat required for specific wildlife species; and, ensure the continued movement of wildlife species between unfragmented blocks of forest and core habitat within the town and surrounding region.

27.5.6 What uses are exempted from these standards? Site work, structures, and/or impervious surfaces shall not encroach upon designated SWHAs except:

27.5.6.1 Expansion of Existing Structures. The expansion of an existing structure provided that the expansion, or the cumulative total of multiple expansions, does not exceed a total footprint of 100% of the footprint of the existing structure.

27.5.6.2 Accessory Structures. Accessory structures to an existing permitted structure or use shall be permitted within 150 feet of such existing permitted structure or use or placed on existing maintained lawns or impervious surfaces, or within building envelopes and roads and driveways, whichever is greater.

27.5.6.3 Fences. Construction of fences (i) used within cleared areas, or that enclose existing cleared areas (e.g., clearings for lawns and gardens immediately surrounding existing structures), provided the clearing occurred prior to [effective date of this provision] or (ii) lower than 4-1/2 feet and that have at least 16 inches of clearance between the lowest horizontal part of the fence and the ground, or (iii) that have minimum 16" x 16" gaps.

27.5.6.4 Alternative Energy. Any alternative and renewable energy installations.

27.5.6.5 Low Impact Clearing, Thinning, Grading, and Excavation. Low impact means less than 1/2 acre.

27.5.6.6 Documentation of No Undue Adverse Effect. Other activities not listed here may be exempted from these standards if a Habitat Disturbance Assessment in conformance to WDB 27.5.7 indicates that the proposed site work, new structures, or impervious surfaces will, because of mitigating factors, not result in undue adverse impact on the significant wildlife habitat area.

27.5.7 Review Procedures.

27.5.7.1 Who determines if my project will impact a SWHA? All development located within the SWHA, which is not exempted by section 27.5.6 or WDB Chapter 4, will require a Habitat Disturbance Assessment (HDA) to be prepared by a qualified wildlife biologist or other professional accepted by the town prior to Discretionary Permit or Administrative Permit review.



27.5.7.2 What must be included in a Habitat Disturbance Assessment? A permit application shall not be considered complete until the HDA has been submitted along with other required application materials. The Williston Conservation Commission shall review each HDA and make recommendations to the DRB or Administrator. Unless waived by the DRB or the Administrator, the HDA shall include the following:

- **Habitat Inventory:** An inventory of existing (pre-development) wildlife habitat found on the parcel of land where the development is proposed, including the presence of significant wildlife habitat, the specific types of habitat found on the parcel and their relative importance to the various wildlife species that rely on that habitat for one or more life-cycle function;
- **Habitat Assessment:** An assessment of the relationship of the habitat found on the on the parcel of land where the development is proposed relative to other significant wildlife habitat present in the town (e.g., does habitat found on the parcel provide for connectivity between core habitat blocks; is the parcel located contiguous to other significant wildlife habitat, or part of a core habitat block);
- **Site Design:** Identification of the distance of all proposed development activities, including designated homesites and associated clearing, driveways and infrastructure (e.g., septic systems) and areas of disturbance, from the significant habitat and, if significant habitat is proposed to be disturbed, the total area of disturbance and the total area of the remaining (undisturbed) habitat;
- **Impact Assessment:** An assessment of the likely impact of the proposed development, including associated activities (e.g., introduction of domestic pets, operation of vehicles and equipment, exterior lighting, introduction of non-native species for landscaping) on the ecological function of the significant wildlife habitat found on the site. This shall include an assessment of whether travel between areas of core habitat will be disrupted; and
- **Recommendations:** Specific measures that would avoid or minimize the proposed development's impact on the habitat, including alternative site designs considered for the project, alternative locations for the development on the parcel, and possible mitigation.

27.5.8 SWHA General Standards. All development within SWHAs shall be designed to:

27.5.8.1 Minimize the fragmentation of forest cover and other relevant habitat characteristics. All development in SWHAs shall be designed so that lots and building sites are located to avoid, to the greatest extent practicable given site conditions and development options on the site, impacts to significant wildlife habitat. Therefore, if a site on a parcel is capable of meeting all the standards of this section, then that site will be given precedence over other sites that do not conform.

27.5.8.2 Cluster development. Lots and building sites should be clustered to minimize impacts to, and avoid encroachment and associated fragmentation of, SWHAs.

27.5.9 Core Habitat Standards. All development within an area identified as Core Habitat shall be designed to:

27.5.9.1 Minimize the encroachment of development into core habitat. Site disturbances, the placement of buildings, and the extension of roads, driveways and utilities shall be located as close to existing roads as is practical, given development options for the site, to avoid encroachment into core habitat.

27.5.10 Habitat Connectivity Corridor Standards. All development within an area identified as a Habitat Connectivity Corridor shall be designed to:

27.5.10.1 Minimize disruption and fragmentation of the identified corridor. Ensure that the development will not prevent the continued use by wildlife species identified as being dependent on the corridor (bobcat, fisher, mink, four-toed salamander, wood frog, smooth green snake, and wood turtle) to travel between areas of core habitat.

27.5.10.2 Avoid Barriers. Avoid any placement of fences, walls, or substantial changes in grade that would disrupt the movement of wildlife within the corridor.

27.5.10.3 Mitigate impacts. If the requirements of 27.5.10.1 cannot be met, then the applicant shall mitigate impacts by restoring or enhancing woody vegetation cover in portions of the mapped corridor that have been previously disturbed by clearing or similar disturbance. Restoration and enhancement proposals must be approved by the Administrator, and the restored or enhanced acreage must be included in a designated open space area as described in 27.4.3.

27.6 Uncommon, Rare, Threatened, and Endangered Species (URTES) and Communities

27.6.1 What are Uncommon Species? These vulnerable species are at moderate risk of extinction\extirpation due to restricted range, relatively few populations or occurrences (often 80 or fewer), recent and widespread declines, or other factors.

27.6.2 What are Rare Species? These imperiled species are at high risk of extinction or extirpation due to very restricted range, very few populations (often 20 or fewer), steep declines, or other factors. Rare species face threats from development of their habitat, harassment, collection, and suppression of natural processes, such as fire.

27.6.3 What are Threatened, and Endangered Species? Endangered and threatened species are defined by both state and federal law. State law defines endangered species as a species listed on the state endangered species list under 10 V.S.A. Chapter 123 section 5401 or determined to be an endangered species under the federal Endangered Species Act. The term generally refers to species whose continued existence as a viable component of the state's wild fauna or flora is in jeopardy. Threatened species are defined in 10 V.S.A. Chap. 123 section 5402 as a species whose numbers are significantly declining because of loss of habitat or human disturbance, and unless protected will become an endangered species.

27.6.4 Are URTES located on my property? Known locations of URTES are shown on the official map titled “*Uncommon, Rare, Threatened, and Endangered Species and Communities,*” which is available for review at the Williston Planning and Zoning Office. The location of URTES may also be identified by the Vermont Fish and Wildlife Department or through site investigation.

27.6.5 What is the purpose of protecting URTES? These standards are designed to maintain, restore, provide stewardship for, and conserve habitats and natural communities that support URTES.

27.6.6 Review Procedures

27.6.6.1 Who determines if my project will impact a URTES? All development located within a designated URTES habitat and which is not exempted by WDB Chapter 4 will require a written opinion issued by the Vermont Fish and Wildlife Department (VFWD) confirming the presence or absence of URTES. The applicant must provide the VFWD with a map and site plan showing the location of the URTES in relation to the proposed development.

27.6.6.2 What if a URTES is present? If a URTES is present, the applicant must obtain a written opinion from the VFWD indicating what measures must be taken to assure that the proposed development will not result in undue adverse impact the URTES. Recommendations from the VFWD may require additional work from the applicant. The presence of an Endangered or Threatened species may require an Endangered and Threatened Species Permit from the State of Vermont.

27.7 Unique Natural Communities (UNC)

27.7.1 What are Unique Natural Communities? These communities are composed of a unique natural assembly of physical and biological conditions that occur together to form a functionally distinct portion of the landscape. These special features could include bogs, cliffs, vernal pools, or special kinds of forest.

27.7.2 What are the boundaries of Unique Natural Communities? The boundaries of Unique Natural Communities are shown on the official map titled “*Unique Natural Communities*,” which is available for review at the Williston Planning and Zoning Office.

27.7.3 What is the purpose of protecting Unique Natural Communities? The purpose is to protect unique natural communities that enhance the diversity and beauty of Williston’s landscape.

27.7.4 Review Requirements

27.7.4.1 Who determines if my project will impact a Unique Natural Community? Many of Williston’s UNC’s have been inventoried by the town and so the significant resources have been documented. For all development proposed within the UNC and which is not exempted by WDB Chapter 4, the impact to the UNC shall be determined by the Zoning Administrator or the DRB. Prior to Discretionary Permit or Administrative Permit review, the Administrator may request recommendations from the Williston Conservation Commission who will identify the significant resources in the targeted UNC and make recommendations to assure that the proposed development will not conflict with the UNC’s special features. The significant resources in each UNC are provided in the table 27.A below:

Table 27.A

Unique Natural Community	Significant Resources to Protect
Bur Oak Knoll	uncommon Bur Oak natural community
Johnson Falls	wildlife habitat, water quality
Gramma Ridge	forested uplands, vernal pools, wildlife habitat
Glacial Spillway	wildlife habitat, water quality
Brownell Mountain	forested uplands, wildlife habitat
Mud Pond	wildlife habitat, water quality, forested uplands
Lower Allen Brook Watershed	water quality, riparian forests, wildlife habitat
Winooski River Floodplain	water quality, riparian forests, wildlife habitat
Red Maple/Blueberry Swamp	wildlife habitat, water quality
Allen Brook Tributary Confluence	wildlife habitat, water quality
Hemlock woodland/wetland	wildlife habitat, water quality
Upper Lake Iroquois Watershed	wildlife habitat, water quality
Former Burnett Property	forested uplands, wildlife habitat

27.8 Farmlands of Local Importance.

27.8.1 What are Farmlands of Local Importance? Farmlands of Local Importance are classified by the Land Evaluation/Site Assessment (LESA) system. All properties that received a LESA Farmland Score are Farmlands of Local Importance. The LESA system is a framework for combining multiple factors into an integrated assessment of the importance of a particular site for continued agricultural use. Such factors as soil quality, agricultural productivity, development pressure, and measures of other public values are combined into a single score that allows the town to identify and protect important agricultural land and plan growth accordingly.

The State of Vermont uses a definition of agricultural lands that is based solely in the important farmlands definitions adopted by the Natural Resources Conservation Service (see 10 V.S.A. § 6001(15)). Those definitions, which include “prime farmland” and “farmlands of statewide importance,” reflect the inherent characteristics and management of a parcel, but ignore its context. Their use in Williston has been counterproductive, making it more difficult to promote a compact pattern of development because the state is “protecting” isolated parcels of productive soils that are surrounded by development and urban infrastructure. Williston focuses its farmland protection efforts on working farms (which may include soils that are not as productive) rather than on soil bodies.

27.8.2 Is my property considered a Farmland of Local Importance? Farmlands of Local Importance are shown on the official map titled “1988 LESA Farmland,” which is available for review at the Williston Planning and Zoning Office.

27.8.3 What is the purpose of protecting important farmlands? Williston has lost a sizeable area of productive farmland to development. The purpose is to preserve to the greatest extent practicable the working landscapes support locally grown products and that many residents and visitors see as the classic image of Vermont.

27.8.4 What uses are exempted from these standards? Site work, structures, and/or impervious surfaces shall not encroach upon designated Farmlands of Local Importance except:

27.8.4.1 Growth Center. All lands that are included in Williston's designated growth center.

27.8.4.2 Residential Improvements. All residential improvements listed in WDB Chapter 20.

27.8.5 Review Procedures.

27.8.5.1 Who determines if my project will impact a Farmland of Local Importance? For all development proposed within a Farmland of Local Importance and which is not exempted by section 27.8.4 or WDB Chapter 4, the impact to the farmland shall be determined by the Zoning Administrator or the DRB. Prior to Discretionary Permit or Administrative Permit review, the Administrator may request recommendations from the Williston Conservation Commission.

27.8.6 Farmland of Local Importance Protection Standards

27.8.6.1 Minimize the encroachment of development into Farmlands of Local Importance. Site disturbances, the placement of buildings, and the extension of roads, driveways and utilities shall be located as close to existing roads as is practical, given development options for the site, to avoid encroachment into the important farmland. Development should be situated on the least productive soils.

27.8.6.2 Cluster development. Lots and building sites should be clustered to minimize impacts to, and avoid encroachment and associated fragmentation of, important farmlands.

27.9 Scenic Viewshed

27.9.1 What is a Scenic Viewshed? Williston's scenic viewshed includes the open fields and meadows, wooded slopes and ridgelines, and scenic viewpoints that make up the visual character of the town. Each viewshed category is described below. These categories are further broken down into "primary" and "secondary" designations. Places where different components overlap are judged to be more significant.

- **Vantage Point.** It is via accessible vantage points that a typical citizen "takes in" visual information about the landscape. For most people, these vantage points are found largely along the public roads daily travelled. Vantage points are public viewing points from roads and other places throughout town that provide access to views of high quality. The lands comprising these views have been analyzed and evaluated with respect to four major components, foreground, middleground, background and focal points.
- **Foreground.** These lands, generally consisting of cleared land adjacent to public roads, serve essentially as the community's "window" into the landscape. Since they provide access to the rest of the landscape they are the most important component of a scenic landscape (without them even the best middleground or background is lost to the viewer). They are most effective when they are framed by a woodland or hedgerow edge that creates a distinct first layer of a multi-layered view. In certain high quality short-range views, they can also consist of wooded land. Yet, because they tend to be visually uncluttered, prominent and easily accessed, they also are highly vulnerable to degradation by development.

- **Middleground.** These lands are generally a more complex composition of layered wooded and open lands and man-made features. Because of their inherent complexity they are able to absorb only limited and well-sited development without damaging their basic character. Middlegrounds often are important in the visual transition between foreground and background.
- **Background.** These lands now predominantly consist of forested hillsides that rise up behind the middleground. To the east and west the far horizon lines are the Green Mountains and the Adirondacks, seen from many vantage points in the town. With discretionary clearing of building sites, hillsides below the horizon may sometimes absorb a limited amount of development (soils and slopes permitting) without significant intrusion. At other times any development irrevocably compromises the view. The horizon line itself, due to its highly contrasted nature, is very sensitive to intrusion by man-made development. Publicly acceptable encroachments are generally limited to certain public structures such as church steeples and the rooflines of government buildings or the collective composition of a settlement.
- **Focal Points.** Most high quality views feature some kind of accent or focal point within the composition. The focal point draws the eye. These are typically provided by prominent man-made features such as farmstead clusters or church steeples or unique natural features such as rock outcroppings, great trees, or mountain peaks. Because the strength of focal points lie in their contrast to the surrounding landscape, they need to be protected from competing elements (i.e., adjacent buildings or trees should not obliterate a village church steeple).

27.9.2 What are the boundaries of the Scenic Viewshed? The boundaries of the Scenic Viewshed are shown on the official map titled “*Visual Assessment*,” which is available for review at the Williston Planning and Zoning Office.

27.9.3 What is the purpose of protecting the Scenic Viewshed? The purpose is to maintain the visual character of Williston.

27.9.4 What uses are exempted from these standards? Site work, structures, and/or impervious surfaces shall not encroach upon the designated Scenic Viewshed except:

27.9.4.1 Growth Center. All lands that are included in Williston’s designated growth center.

27.9.4.2 Residential Improvements. All residential improvements listed in WDB Chapter 20.

27.9.5 Review Requirements

27.9.5.1 Who determines if my project will impact a Scenic Viewshed? For all development proposed within a Scenic Viewshed and which is not exempted by section 27.9.4 or WDB Chapter 4, the impact to the viewshed shall be determined by the Zoning Administrator or the DRB. Prior to Discretionary Permit or Administrative Permit review, the Administrator may request recommendations from the Williston Conservation Commission.