

**Private Family Cemeteries:** Really glad to see this in the bylaw, and I wish that more communities would take this on!

Background: State health regulations do “enforce” some standards for disposition of remains, even though the Town Clerk is responsible for issuing the burial-transit permit. I put that in quotes, it’s not clear how they would be enforced, and there seems to be quite a bit of confusion. Here is an overview that I found regarding burial transit permits to be helpful (albeit some rather painful puns).

<https://outside.vermont.gov/dept/sos/Municipal%20Division/digging-deep-2017.pdf>

*General recommendations would be to reference statute as much as possible. For example:*

4.19(B)(2) Reword to : “A burial-transit permit issued in accordance with [18 V.S.A. §5201](#).” I would strike “equivalent documentation”, since statute doesn’t seem to provide for one, and the process of determining what is valid appears to be out your hands, whether it’s the Town Clerk, funeral director, or law enforcement officer.

4.19(D): Environmental safeguards: Here it might make sense to simply reference [18 V.S.A. §5319](#). Your standards don’t currently match them. Although you are siting them out of flood hazard areas, the standards also require for anything that’s not a green burial (i.e. in a container) to be designed to withstand “extreme climate conditions” and be “waterproof and air tight.” So, you might want to simply site the standards in §5319 in case they change.

(G) Recordkeeping: As mentioned on the phone [18 V.S.A. §5311](#), statute seems to be very inflexible of what constitutes a suitable means of recording. I would reword to say:

“The burial site and documentation shall be filed with the Town Clerk and recorded in the Town Land Records in accordance with [18 V.S.A. §5311](#).”

Item not related to statutory precedent:

4.19(F)Fencing and marking: Have you given consideration to what kind of signage? Such as *on-premise historic or landmark signs, not to exceed one in number or 6 square feet in area?* (Table 3.2(12 under exempted signs?) Also, what constitutes “non-obtrusive”? If I’m reading these regulations correctly, these will always be reviewed administratively, so couldn’t that be somewhat subjective for administrative review? Also, couldn’t fencing and marking be associated with natural burial grounds, which ARE reviewed as a conditional use? [Vermont Forest Cemetery](#) in Roxbury has a sign at the entrance, and I think they also invite proposals for some forms of visual art, although they appear to impose their own internal standards for what is considered. It feels like this standard might provide some helpful guidance for natural burial grounds where the DRB can exercise some discretion.

Section 1.3: Interpretation. If you are sending this to your attorney, I wonder if it makes sense to revisit this section. I *think* that in 1.3(C) the first sentence kind of implies that an issuance of a local permit under your regulations does not constitute compliance with other regulations, but I wonder if it could be more strongly stated, particularly if someone puts in a private cemetery only to find that they didn't comply with state health standards in 18 V.S.A.? Would someone contend that they had been misled? There's probably no legal ground for it, BUT for consideration, here is how the Town of Brighton handles this issue:

**“State and federal government may regulate certain aspects of land use; compliance with this zoning bylaw in no way implies compliance with such state or federal regulations. Such regulations include, but are not limited to: on-lot sewage systems and outdoor furnaces, regulated by the Agency of Natural Resources; underground storage tanks, regulated by the Department of Environmental Conservation; and setback of farm structures, regulated by the Secretary of Agriculture, Food and Markets.”**

Perhaps that's a lead-in to 1.3(C)?

#### River Corridor Regulations:

Citing of purposes: While you've adapted purpose statements pretty much from the model regulations, I think it might make sense to integrate these into one section, to avoid confusion with Section 1.2? Section 5.4 also starts with a purpose statement, so maybe there's a case of consolidating all the purpose statements.

The remaining text under this section describing the permit requirement and 5.4(B) seems more aptly presented as “Applicability”. So maybe a more consistent approach to organize it would be

(A) Applicability. A permit is required from the AO...

(B) River Corridor Boundaries

And since 5.3 has a warning of disclaimer of liability, shouldn't Section 5.4 as well? Right now it reads as if the disclaimer only applies to the inundation areas. I don't think that's really the case, so the disclaimer should be repeated here as well in subsection (C), which will mean that the rest needs to get renumbered.

For river corridor boundaries, I believe that streams with a watershed size SMALLER than a half square mile can exempted entirely and still qualify for the additional benefit. Maybe you deliberately intend to include them, but I just wanted to point that out that can be an option for you. This was a real sticking point for one of our towns that didn't want to have to regulate them.

Substantially damaged structures in the river corridor: I'm not seeing the language regarding the determination of a substantially damaged structure, but I think it's implied in 5.3 (I). However, that applied to structures that are in the floodplain, not the river corridor. What happens if it's just in the river corridor? I am assuming that it cannot be put back as is.

Also, even though down shadow provisions only apply to the existing primary structure, what happens if the primary structure is being replaced? I'm bringing this up because it was determined that a tiny house along the Red Village Road in Lyndon could be replaced in the same spot, as is, in accordance with the Town's river corridor regulations. The tiny house [famously washed away last July](#), and the occupant was nearly killed. It feels like a loophole, and I'm wondering if it can be addressed by adding a sentence after the Down River Shadow section, such as **"The replacement of a pre-existing structure shall be located in the shadow area of the original structure."** Maybe that would eliminate some of the risk?

#### Misc.

Highway Mixed Use: If you are adding Transfer Stations as a conditional use, you might want to reference 4.15, just as you've done in the Industrial District?