

TOWN OF FRANKLIN DEVELOPMENT REGULATIONS

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ARTICLE 1. GENERAL PROVISIONS

Section 1.1: Statutory Authorization & Enactment

Unified Development Regulations for the Town of Franklin are hereby established in accordance with the Vermont Municipal and Regional Planning and Development Act (Title 24, Chapter 117, Subchapter 7, of Vermont Statutes Annotated) hereinafter referred to as "the Act". The regulations set forth in the text and map which follow shall be known and cited as the "Town of Franklin Development Regulations."

Section 1.2: Purpose

The purpose of these Regulations is to implement the Town of Franklin Municipal Plan, as most recently adopted; to further the purposes of the Act; to promote the health, safety, and general welfare of the inhabitants of the Town; to provide for orderly community growth; and to maintain and enhance the natural beauty and environment of the Town.

Section 1.3: Applicability

No land development (see definition in Article 10) or development in the Special Flood Hazard Area (see definition in Section 9.10) shall commence within the jurisdiction of the Town of Franklin except in compliance with these Regulations. Any land development not authorized under these Regulations is prohibited.

Section 1.4: Interpretation

These Regulations shall not repeal, abrogate, or impair any other land use controls including but not limited to statutes, regulations, rules, ordinances, permits, easements, deed restrictions, and covenants. However, the provisions of these Regulations shall be minimum requirements that shall take precedence over any concurrent and less restrictive controls.

Section 1.5: Amendment, Adoption & Effective Date

These Regulations and any amendments shall be prepared and adopted in accordance with the procedures outlined in Sections 4441 and 4442 of the Act.

Section 1.6: Severability

The provisions of these Regulations are severable. If any provision or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or applications of these Regulations.

Section 1.7: Statutory Exemptions

The following uses and structures are specifically exempted from municipal land use and development regulations by Vermont State law. In accordance with the Act [§4413], no municipal Zoning Permit or approval under these Regulations shall be required for:

- A) Accepted agricultural and best management practices (AAPs, BMPs) as adopted in rules by the Agency of Agriculture (see www.vermontagriculture.com), including farm structures, as defined by the Secretary of Agriculture, Food and Markets in accordance with the Act (Title 6 §4810). However, written notification, including a sketch plan of the farm structure showing setback distances from road rights-of-way, property lines, and surface waters shall be made to the Zoning Administrator prior to any construction as required under the AAPs. Agricultural practices that are governed by the AAPs include, but are not limited to the following:
 - 1) The confinement, feeding, fencing, and watering of livestock.
 - 2) The handling of livestock wastes and by-products.
 - 3) The collection of maple sap and production of maple syrup.
 - 4) The preparation, tilling, fertilization, planting, protection, irrigation and harvesting of crops.
 - 5) The ditching and subsurface drainage of farm fields and the construction of farm ponds.
 - 6) The stabilization of farm field streambanks constructed in accordance with the United States Department of Agriculture Natural Resources Conservation Service standards and specifications or other standards approved by the Commissioner.

- B) Accepted management practices (AMPs) for silviculture (forestry) as defined by the Commissioner of Forests, Parks, and Recreation, pursuant to the Act.

- C) Public utility power generating plants and transmission facilities that are regulated by the Vermont Public Service Board [under 30 V.S.A. §248], including net-metered wind generation facilities and solar panels.

- D) Hunting, fishing or trapping on public or private land as specified by the state [under 24 V.S.A. §2295]. This excludes facilities that may support such activities, such as

firing ranges, rod and gun clubs, and fish and game clubs, which are subject to these Regulations.

ARTICLE 2. ADMINISTRATION & ENFORCEMENT

Section 2.1: Staff, Boards, and Commissions

A) Zoning Administrator. A Zoning Administrator shall be nominated by the Planning Commission and appointed by the Selectboard for a term of three (3) years. The compensation of the Zoning Administrator shall be set according to Title 24 Section 932 and 933 V.S.A. and shall be subject to the personnel rules of the Town of Franklin. A Zoning Administrator may be removed for cause at any time by the Selectboard after consultation with the Planning Commission. A Zoning Administrator may hold any other office in the municipality other than membership in the Board of Adjustment and the Planning Commission.

1) Responsibilities of the Zoning Administrator.

- a) The Zoning Administrator shall administer these Regulations literally and shall not have the power to permit any land development in the Town of Franklin or development in the Special Flood Hazard Area that is not in conformance with them.
- b) The Zoning Administrator shall coordinate a unified effort on behalf of the municipality in administering its development review programs.
- c) The Zoning Administrator shall provide an applicant with forms required to obtain any municipal permit or other municipal authorization that may be required by these Regulations or other municipal ordinances.
- d) The Zoning Administrator shall inform any person applying for municipal permits or authorizations that the person should contact the regional permit specialist employed by the agency of natural resources in order to assure timely action on any related state permits; nevertheless, the applicant retains the obligation to identify, apply for, and obtain relevant state permits.

B) Planning Commission. There shall be a Planning Commission established by the Selectboard according to Subchapters 9, 10, and 11 of the Act. The Planning Commission shall adopt rules of procedure and ethics policies in regard to conflicts of interest to guide its official conduct in conformance with the Act [Section 4323 and 4461] and Vermont's Open Meeting Law [1 V.S.A. 310-314].

1) Responsibilities of the Planning Commission.

- a) Prepare and update the Town Plan, undertake capacity studies and make recommendations on matters of land development, and perform other duties as described in 24 V.S.A. Section 4325;
- b) Prepare amendments to these regulations and other regulations as permitted by the Act;
- c) Hear and act on applications for access by right-of-way;

- d) Hear and act on applications for subdivision approval and boundary lot adjustments; and
- e) Hear and act on any uncertainties on the Zoning Map.

C) Zoning Board of Adjustment. There shall be a Board of Adjustment established by the Selectboard according to Subchapters 9, 10, and 11 of the Act. The Zoning Board of Adjustment shall adopt rules of procedure and ethics policies in regard to conflicts of interest to guide its official conduct in conformance with the Act [Section 4323 and 4461] and Vermont's Open Meeting Law [1 V.S.A. 310-314].

1) Responsibilities of the Zoning Board of Adjustment.

- a) Hear and act on appeals of decisions of the Zoning Administrator,
- b) Hear and act on applications for a variance from these regulations, and
- c) Hear and act on applications for conditional use permits.

Section 2.2: Fees

The Selectboard shall establish a schedule of application fees and amend the schedule as needed to cover some or all of the cost of the administration and enforcement of these Regulations. The schedule of fees shall be posted in the offices of the Town Clerk and Zoning Administrator, and may be altered or amended only by resolution of the Selectboard.

Section 2.3: Zoning Permit

A) Land Development Requiring a Zoning Permit. No person shall undertake any land development as defined in Article 10 or development in the Special Flood Hazard Area as defined in Section 9.10, except as exempted below, without a valid Zoning Permit issued by the Zoning Administrator that specifically authorizes the action. Zoning Permits are issued for a specific parcel of land, and are not transferable to any alternate parcel. Zoning permits run with the land and are not affected by property transfers. Land development includes but is not limited to the following:

- 1) Construction, placement or relocation of a structure greater than 50 square feet.
- 2) A change to the exterior dimensions of an existing structure or other alterations which changes the height or increases building area or square footage by greater than 50 square feet.
- 3) A change or expansion to the use of land or of structures thereon.
- 4) New or expanded earth resource extraction or processing operations (See Section 7.4).
- 5) The filling of land (See Section 6.2).
- 6) Placing, relocating or changing an outdoor sign allowed according to Section 6.9.

- B) Exemptions.** A Zoning Permit is not required for the following actions (these exemptions do not apply to the Special Flood Hazard Area):
- 1) New structures or improvements to existing structures which involve 50 square feet or less.
 - 2) Actions associated with landscaping customary in yard areas.
 - 3) Demolition of structures; however, compliance with Section 2.3(E) is required.
 - 4) Certain signs (according to Section 6.9).

C) Farm Structures. Farm structures do not require a Zoning Permit; however, written notification, including a sketch plan of the farm structure showing setback distances from road rights-of-way, property lines, and surface waters shall be made to the Zoning Administrator prior to any construction as required under the AAPs. (See Section 1.7(A)).

D) Application Requirements. Along with the permit fee and all other approvals required by these Regulations, an application for a Zoning Permit must contain the following:

- 1) A sketch or plan indicating:
 - a) The shape, size, height, and location in exact relation to all property lines and to street or road lines of any structure to be constructed, altered, extended or moved, and of any structure already on the lot;
 - b) The location of any proposed new boundary line on the lot; and
 - c) The existing or intended use of all such structures and the land.
- 2) A list of names and most recent mailing addresses of all abutting property owners within the same or neighboring communities as derived from the Grand List.
- 3) A copy of a Wastewater and Potable Water Supply application or permit (if issued) from the Vermont Department of Environmental Conservation, or written proof from the Vermont DEC that such a permit is not required.
- 4) Any other information which the Zoning Administrator requires to ensure that the provisions of these Regulations are met.

E) Zoning Permit Requirements.

- 1) If one or more approvals from the Planning Commission or Zoning Board of Adjustment are required, such approval shall be obtained before applying for a Zoning Permit.
- 2) Before issuing a Zoning Permit, the Zoning Administrator shall confirm that the use proposed is a permitted use according to Table 3.4(a) or has received Conditional Use Approval from the Zoning Board of Adjustment. In addition, the

Zoning Administrator shall confirm that the proposal conforms to the dimensional requirements, including setbacks, as listed in Table 3.4(b).

- 3) Before issuing a Zoning Permit, the Zoning Administrator shall confirm that the proposal conforms to the decision and conditions imposed in the Board of Adjustment approval (if one exists) and meets the applicable standards in Article 6, Article 7, Article 8, and Article 9.
- 4) Before issuing a Zoning Permit, the Zoning Administrator shall confirm that the proposal has obtained all required local permits and approvals, such as water supply allocations, approval for a curb cut on a Town highway, conformance with municipal road ordinances, subdivision approval, and any other required permits or approvals.
 - a) Proof of Wastewater and Potable Water Supply Permit. If the Zoning Administrator, the Planning Commission or the Zoning Board of Adjustment has not received a copy of a Wastewater and Potable Water Supply Permit from the Vermont Department of Environmental Conservation (DEC) or proof that such a permit is not required, the Zoning Permit and/or Board decision shall be conditioned on the issuance of a Wastewater and Potable Water Supply Permit. The Town of Franklin reserves the right to review and appeal all Wastewater and Potable Water Supply Permits, in addition to determinations by the DEC that a permit is not required.

F) Zoning Permit Expiration. Zoning Permits shall be effective for a period of twelve (12) months. Active construction of the permitted land development or development in the Special Flood Hazard Area must be completed within this 12-month effective period. If requested in writing, a single, one-year extension may be granted if active construction has continued for, but has not been completed within, the initial twelve (12) month period. If a Zoning Permit expires, a new Zoning Permit must be obtained.

- 1) Within six months after the expiration of a zoning permit all construction materials used in connection with the land development or development in the Special Flood Hazard Area subject to the zoning permit shall be removed from the site, and any remaining excavation shall be covered over or filled to the natural grade and seeded by the owner to prevent erosion.

G) Statement of Appeal. Each Zoning Permit shall contain a statement of the period of time within which an appeal may be taken according to Section 2.7.

H) Temporary Uses and Structures. Temporary permits may be issued by the Zoning Administrator for non-conforming uses and non-conforming structures incidental to construction projects, provided that the property owner shall remove the temporary structure or use upon the expiration of the construction project permit.

Section 2.4: Zoning Permit Public Notice and Issuance

A) Issuance. Within thirty (30) days of submission of a completed application, fee, and all other required information and approvals, the Zoning Administrator shall either issue or deny the Zoning Permit, or refer the application to the appropriate Board. No Zoning Permit shall be issued by the Zoning Administrator for any land development or development in the Special Flood Hazard Area which requires the approval of the Planning Commission or Zoning Board of Adjustment until such approval(s) have been obtained. The Zoning Administrator shall so notify the applicant in writing on the action taken, including for permit denials, referrals and determinations of no permit needed. If the Zoning Administrator fails to act within the 30-day period, a Zoning Permit shall be deemed issued on the 31st day (Section 4448 of the Act).

B) Public Notice.

- 1) **Zoning Administrator Responsibilities.** Within three days following the issuance of any decision by the Zoning Administrator, the Zoning Administrator shall deliver a copy to the Listers and post a copy of the Zoning Permit in the Town Clerk’s office until the expiration of the appeal period or in the event that a notice of appeal has been filed, until final adjudication of that appeal.

- 2) **Applicant Responsibilities.** The applicant must also post a Zoning Permit notice, in the form prescribed by the Town of Franklin, within view of the public right-of-way most nearly adjacent to the subject property until the time for appeals has passed. The notice shall contain a statement of the appeal period and information as to where a full description of the project and approval can be found.

C) Flood Hazard Area Referral. Development as defined in Section 9.10 located within a Flood Hazard Area (as established in Article 3) shall comply with the referral requirements in Section 9.3(B).

Section 2.5: Public Hearing Notice Requirements

A) Public Hearing. In accordance with Section 4463(a) and 4464(a) of the Act, a warned public hearing is required for applications requiring approval of the Zoning Board of Adjustment or Planning Commission. Public notice shall be given not less than 15 days prior to the date of the public hearing in the following ways:

- 1) Publication of the date, place, and purpose of the hearing in a newspaper of general circulation in the Town of Franklin and posting of the same information in three or more public places within the Town (responsibility of the Town), including posting within view from the public right-of-way most nearly adjacent to

the property for which an application is being made (responsibility of the applicant).

- 2) Written notification to the applicant and owners of all properties adjoining the property, without regard to public right-of-way. Written notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

All public notices will be created by the Town of Franklin Zoning Office. Town personnel will be responsible for posting all public notices, except that the applicant shall be responsible for posting the notice within view of the public right of way nearest to the property for which the application is being made.

B) Coordinated Review. In accordance with Section 4462 of the Act, in cases where a proposed project will require more than one type of development review, the Planning Commission and Zoning Board of Adjustment may warn and hold a combined hearing for the purpose of reviewing and acting on the proposal. The Zoning Administrator shall identify proposed projects appropriate for combined review and assist applicants in preparing and submitting coordinated applications to facilitate combined review. Notice for a combined review hearing shall be made in accordance with Section 4464(a)(1) of the Act. The hearing notice shall include a statement that the hearing will be a combined review of the proposed project and list each review processes that will be conducted at the hearing. As applicable, the combined review process shall be conducted in the following order:

- 1) Subdivision Approval
- 2) Access by Right-of-Way Approval
- 3) Planned Unit Development Approval
- 4) Conditional Use Review
- 5) Requests for Variances

All hearing and decision requirements, and all deadlines applicable to each review process, shall apply. Separate written decisions may be issued for each review conducted as part of the combined review, but shall be coordinated for consistency where appropriate.

Section 2.6: Decisions

Any action or decision of the Planning Commission or Zoning Board of Adjustment shall be taken by the concurrence of a majority of the members of the Board. In accordance with the Act (Section 4464(b)), the Planning Commission or Zoning Board of Adjustment shall issue a decision within 45 days after the adjournment of the hearing. Failure to issue a decision within the 45-day period shall result in deemed approval effective on the 46th day (Section 4448 of the Act).

Copies of the decision shall be sent to:

- 1) The applicant (by certified mail);
- 2) The appellant in the case of an appeal (by certified mail);
- 3) Every person or party who appeared and was heard at the hearing;
- 4) The Zoning Administrator; and
- 5) The Town Clerk for filing as part of the public records of the Town.

Section 2.7: Appeals

A) Appealing Decisions Made by the Zoning Administrator. The applicant or any interested person (as defined in the Act Section 4465(b)) may appeal any decision or act taken by the Zoning Administrator by filing a written notice of appeal with the Board of Adjustment within 15 days of the act or decision.

- 1) A notice of appeal filed under this section shall include the following information in accordance with Section 4466 of the Act:
 - a) The name and address of the appellant;
 - b) A brief description of the property with respect to which the appeal is taken;
 - c) A reference to the applicable provisions of these regulations;
 - d) The relief requested by the appellant; and
 - e) The alleged grounds why such relief is believed proper under the circumstances.
- 2) The Board of Adjustment shall set a date, time, and place for a public hearing on an appeal which shall be within 60 days of filing of the notice of appeal according to Section 4465 of the Act. Public notice, public hearing, and decision requirements according to this Article apply.

B) Appealing Decisions Made By the Planning Commission or Board of Adjustment. The applicant or any other interested person who has participated in a municipal regulatory proceeding as defined in the Act Section 4471(a) may appeal any decision of the Board of Adjustment or the Planning Commission within 30 days of such decision to the Vermont Environmental Court.

Within thirty (30) days following the date of decision rendered by the Board of Adjustment or Planning Commission, notice of the appeal (which shall include the same information as required in Section 2.7(A) above) shall be filed by:

- 1) Certified mail, with fees, to the Environmental Court;
- 2) Mailing a copy to the Town Clerk, who shall provide a list of interested persons to the appellant within 5 working days; and
- 3) Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person.

Section 2.8: Violations

- A) Violations of these Regulations shall be regulated as prescribed in Sections 4451 and 4452 of the Act. Violations related to development in the Special Flood Hazard Area shall also comply with Section 9.9.
- B) The Zoning Administrator shall initiate appropriate action in the name of the municipality upon violation of these Regulations.
- C) Any person who violates these Regulations shall be fined not more than \$100 for each offense. Each day a violation is continued shall constitute a separate offense. In the case of a subdivision, each violating lot which is part of a sale or agreement for sale or transfer shall be considered a separate offense.
- D) No action may be brought unless the alleged offender has had at least 7 days warning notice by certified mail. The notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within 7 days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the 7 days.
- E) An action may be brought without the 7-day notice and opportunity to cure if the alleged offender repeats the violation within 12 months of an initial 7-day warning notice.

ARTICLE 3. ZONING DISTRICTS & DISTRICT REGULATIONS

Section 3.1: Establishment of Zoning Districts & Official Map

A) The Town is hereby divided into the following four zoning districts:

- 1) Village;
- 2) Rural Residential/Agricultural;
- 3) Shoreland/ Recreation; and
- 4) Conservation.

In addition, a Flood Hazard Overlay District is established to protect the Town's flood hazard areas. The overlay district imposes an additional layer of regulations upon the affected lands.

- B) The location and boundaries of zoning districts are established as shown on the Official Franklin Zoning Map and the Town of Franklin Flood Insurance Rate Maps (published by the Federal Emergency Management Agency). The locations of the zoning districts on the Franklin Zoning Map located in the Town Clerk's Office shall be the final authority as to the zoning status of all land and water areas in the Town.
- C) The Official Zoning Map shall be identified by the signatures of the Selectboard, attested by the Town Clerk. No changes of any nature shall be made on the Official Zoning Map except in conformance with the zoning amendment procedures and requirements set forth in the Act, Sections 4441 and 4442.

Section 3.2: Zoning District Objectives

- A) Village District.** The purpose of this district is to affirm Franklin's commitment to its existing historical centers by accommodating intensive, high-density residential and commercial development. The Villages of Franklin and East Franklin shall remain the focus of activity in the Town, and are areas of first priority for municipal service development.
- B) Rural Residential/Agriculture District.** The purpose of this district is to accommodate sufficient low-density rural development to meet housing needs over the next five years. Land in this district has access by improved public highways and is currently committed to extensive rural residential development, although agriculture is still the predominant land use in much of the district.
- C) Shoreland/Recreation District.** The purpose of this district is to protect the historic character and environmental quality of Lake Carmi and other important water bodies

and shorelines by maintaining the area primarily for seasonal, recreational use. The area includes private and rental dwellings which are used principally for summer residents. This district includes all lands within 500 feet of the mean water mark of Lake Carmi, Mill Pond and Bullis Pond, in addition to the State Park lands adjacent to Lake Carmi.

D) Conservation District. The purpose of this district is to protect lands which, because of their location, topography and soil limitations make them unsuitable for intensive development. Included are areas of steep slopes and swamp lands. Designation of this district is intended to protect the scenic and natural resource value of lands which mostly lack direct access to public roads, are important for wildlife and wildlife habitat, and which are poorly suited for development. Thus, provision has been made only for limited development in these areas.

E) Flood Hazard Area Overlay District. The purpose of this district is to prevent development which would increase flooding, and reduce losses as a result of damage from flooding. Designation of this district is also required for the Town to be eligible for the National Flood Insurance Program.

Section 3.3: Interpretation of Zoning District Boundaries

A) Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- 1) Boundaries indicated as approximately following the center lines of roads, streams, transportation and utility rights-of-way shall be construed to follow such center lines. The abandonment of roads and/or rights-of-way shall not affect the location of boundaries.
- 2) Boundaries indicated as approximately following lot lines shall be construed to follow such lot lines.
- 3) Boundaries indicated as following shorelines shall be construed as following the shoreline at the mean (average) lake level.
- 4) Boundaries indicated as parallel to, or as extensions of features in 1), 2), and 3) above shall be so construed.
- 5) When the Zoning Administrator cannot definitely determine the location of a district boundary line by the above rules or by the scale or dimensions on the Official Zoning Map, the Planning Commission shall interpret the district boundaries.
- 6) Where a district boundary line divides a lot in single ownership on and after the effective date of these Regulations or of amendments thereto, the Board of

Adjustment may permit, as a conditional use, the extension of the regulations for either portion of the lot not to exceed 30 feet beyond the district line into the remaining portion of the lot.

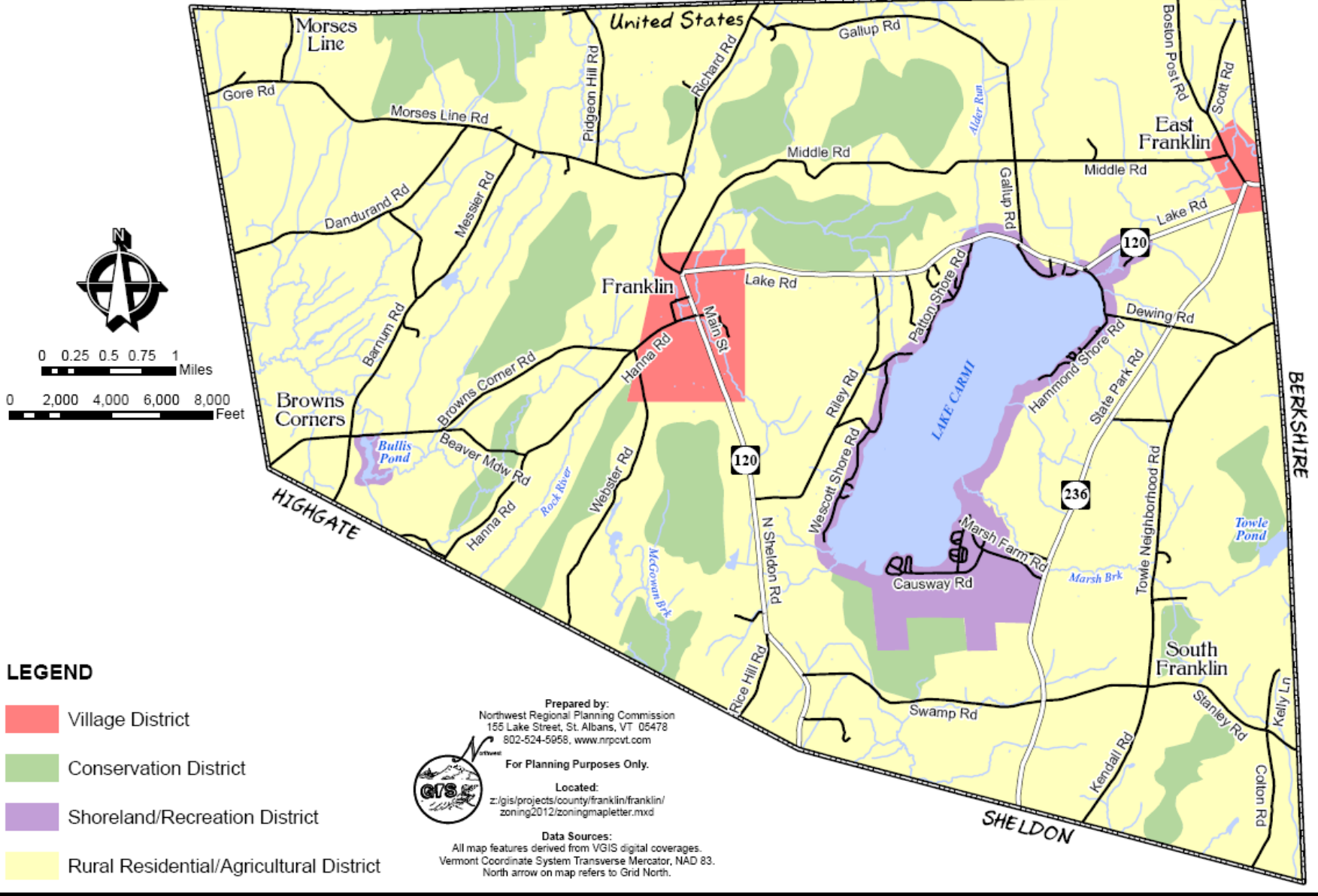
- B) The location of the Special Flood Hazard Area on the town's Flood Insurance Rate Maps shall be determined by the Zoning Administrator. If the applicant disagrees with the determination made by the Zoning Administrator, a Letter of Map Amendment from FEMA shall constitute proof.

TOWN OF FRANKLIN

Zoning Map

Canada

United States



0 0.25 0.5 0.75 1 Miles

0 2,000 4,000 6,000 8,000 Feet

LEGEND

- Village District
- Conservation District
- Shoreland/Recreation District
- Rural Residential/Agricultural District

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For Planning Purposes Only.

Located:
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Data Sources:
 All map features derived from VGIS digital coverages.
 Vermont Coordinate System Transverse Mercator, NAD 83.
 North arrow on map refers to Grid North.

Section 3.4: Zoning District Land Use, Density and Dimensional Standards

- A) Allowable Land Uses.** The prescribed uses and structures for each district are classified as **permitted** or **conditional**, and shall be regulated as follows:

 - 1) Permitted uses require a Zoning Permit from the Zoning Administrator.
 - 2) Uses that require Conditional Use Approval require such approval from the Zoning Board of Adjustment before the Zoning Administrator may issue a Zoning Permit. For uses requiring multiple approvals, review may be coordinated in accordance with Section 2.5(B).
 - 3) Uses not listed as permitted or conditional in any district may be considered by the Zoning Board of Adjustment as a Conditional Use if the proposed use is of the same general character as those permitted or conditional in the district in which the use is proposed. This section shall not be construed to allow a use to be considered in a district when it is clear that the use is permitted or conditional in a different district.

- B) Principal Buildings on Lots.** There shall be only one principal building on a lot, unless approved by the Board of Adjustment as a PUD according to Section 4.4.

- C) Principal Uses on Lots.** There shall only be one principal use on a lot, except that the Board of Adjustment may approve as a conditional use more than one principal use within one principal building if all uses are allowed within the District.

- D) Dimensional Standards.** All lots and structures shall comply with the dimensional standards in Table 3.4(b), except the dimensional standards in Table 3.4(c) shall apply to specific conditional uses as listed.

 - 1) Nonconformities.**

 - a) Pre-existing lots that do not conform to the minimum lot area or the minimum frontage requirement shall be considered pre-existing non-conforming lots and shall be reviewed according to Article 8. Land development on pre-existing lots without frontage shall be reviewed according to Section 6.8(A).
 - b) Pre-existing structures that do not conform to the minimum setback requirements shall be considered pre-existing non-conforming structures and shall be reviewed according to Article 8.

 - 2) Measuring Setbacks.** When determining dimensional standards, setbacks shall be measured horizontally from the furthest protruding point of a structure to the property line, center line of the right-of-way, and/or mean water mark of Lake Carmi, as applicable. See Figure 3.4 Measuring Setbacks below.

Figure 3.4: Measuring Setbacks

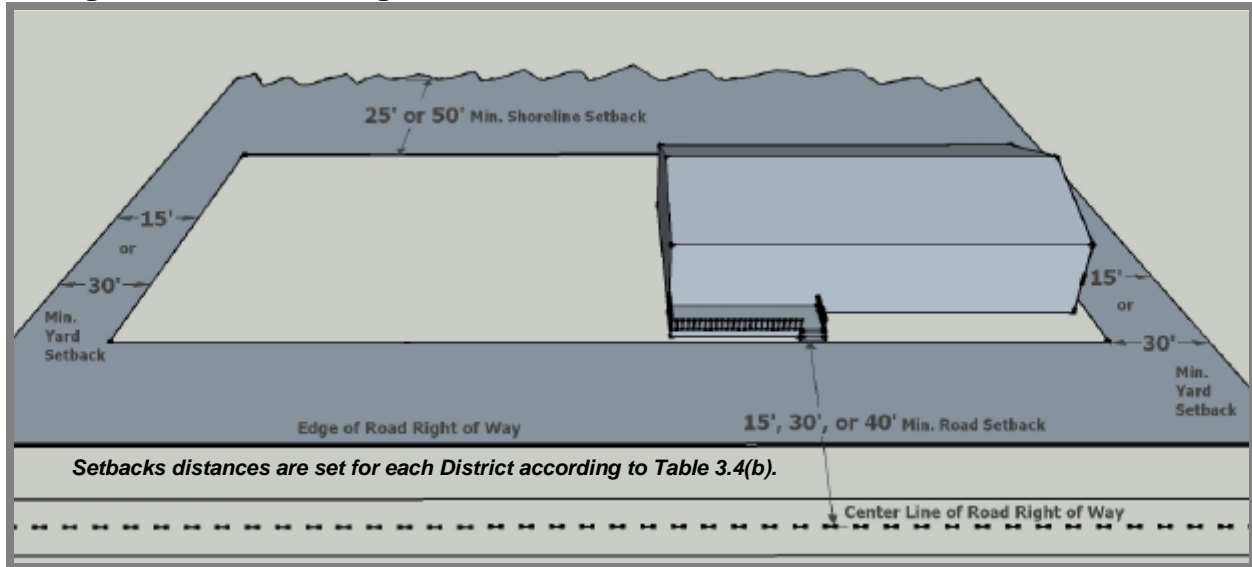


Table 3.4(a) Allowable Land Uses

P (Permitted Use), C (Conditional Use), E (Exempt, No Zoning Permit Required), X (Prohibited)

The allowable land uses in the Special Flood Hazard Area are located in Table 9.1.

	Village	Rural Residential/ Agricultural	Shoreland/ Recreation	Conservation
Residential Uses				
Seasonal to Year Round Dwelling Conversion	P	P	C	C
Single Unit Year Round Dwelling	P	P	C	C
Single Unit Seasonal Dwelling	P	P	C	P
Two Unit Year Round Dwelling	P	P	C	X
Two Unit Seasonal Dwelling	X	X	C	X
Multi Unit Year Round Dwelling	C	C	X	X
Accessory Dwellings	P	P	P	See Section 7.1
Rooming/Boarding House	P	P	X	X
Home Occupations	P	P	C	C
Bed and Breakfast	P	P	C	C
Mobile Home Park	C	C	X	X
Commercial Uses				
Lodging Establishment	C	C	C ¹	X
Marina (Section 7.8)	X	X	C	X

¹ Seasonal Lodging Only

Table 3.4(a) Allowable Land Uses

P (Permitted Use), C (Conditional Use), E (Exempt, No Zoning Permit Required), X (Prohibited)

The allowable land uses in the Special Flood Hazard Area are located in Table 9.1.

	Village	Rural Residential/ Agricultural	Shoreland/ Recreation	Conservation
Gasoline Station, Motor Vehicle Repair/Service, and/or Motor Vehicle Sales (Section 7.6)	C	C	X	X
Personal or Professional Service/Business	C	C	C	X
Restaurant	C	C	C	X
Retail Establishment	C	C	C	X
Industrial Uses				
Light Industry	C	C	X	X
Earth Resource Extraction (Section 7.4)	C	C	X	C
Salvage Yard (Section 7.12)	X	C	X	X
Public Uses				
Public Facility (Section 7.10)	C	C	C	X
Community Facility	C	C	C	X
Place of Worship	C	C	C	X
Recreational Uses				
Recreation Facility/Outdoor	C	C	C	X
Recreation Facility/Outdoor with No Structures	C	C	C	X
Recreation Facility/Indoor	C	C	C	X
Campground (Section 7.3)	X	C	C	X
Other Uses				
Agricultural Structure	E	E	E	E
Accessory Uses & Structures	P	P	P	C
Club	C	C	C	C
Family Child Care Home or Facility (Section 7.5)	See Section 7.5			
Public Parking Lot	C	C	C	X
Residential Care Home or Group Home (Section 7.11)	See Section 7.11			
Wireless Telecommunication Facility (Section 7.13)	C	C	C	C

Table 3.4(b): Dimensional Standards for Structures and Lots

	Village	Rural Residential/ Agricultural	Shoreland/ Recreation	Conservation
Minimum Lot Area	Off-Lot Water & Wastewater: 20,000 Sq. Ft. On-Lot Water & Wastewater: 40,000 Sq. Ft.	SU Dwelling: 40,000 Sq. Ft. 2U & MU Dwelling: 60,000 Sq. Ft.	1 Unit Seasonal Dwelling: 14,000 Sq. Ft. or 20,000 Sq. Ft. ¹ 1 Unit Year Round Dwelling: 40,000 Sq. Ft. 2 Unit Seasonal Dwelling: 40,000 Sq. Ft. 2 Unit Year Round Dwelling: 60,000 Sq. Ft.	10 Acres
Minimum Frontage	100 Feet	140 Feet	1 Unit Seasonal Dwelling: 100 Feet 1 Unit Year Round Dwelling & 2 Unit Dwelling: 140 Feet	140 Feet
Setback, Road	30 Feet ²	40 Feet	Public Road: 40 Feet Private Road: 15 Feet	40 Feet
Setback, Yard	15 Feet ² 5 Feet, Accessory Structures	30 Feet	1 Unit Seasonal Dwelling: 15 Feet 1 Unit Year Round Dwelling, 2 Unit Year Round & 2 Unit Seasonal Dwelling: 30 Feet	30 Feet
Setback, Stream	50 Feet	50 Feet	50 Feet	100 Feet
Setback, Shoreline	N/A	N/A	1 Unit Seasonal Dwelling: 25 Feet 1 Unit Year Round Dwelling & 2 Unit Seasonal: 50 Feet	N/A

Note: Residential accessory uses/structures shall comply with the setback distances required for the principal use of property. This includes accessory dwellings, home occupations, bed and breakfasts, rooming and boarding houses, residential care homes (Section 7.11), and family childcare homes (Section 7.5(A)(1)).

Table 3.4(c) Dimensional Standards for Specific Conditional Uses

	Minimum Lot Area	Minimum Setback from Road ROW	Minimum Yard Setback	Minimum Setback from Shore or Stream Bank	Minimum Frontage
Lodging Establishment	5,000 Sq. Ft.	40 Feet	30 Feet	100 Feet	150 Feet
Restaurant	40,000 Sq. Ft.	40 Feet	30 Feet	100 Feet	150 Feet

¹ If there are multiple standards given, the lower number for a use shall apply to dwellings that have off-lot water and/or sewer while the higher number for a use shall apply to dwellings that have on-lot water and sewer.

² For Multi Unit Dwellings, an additional five (5) feet per dwelling unit is required in addition to the base standard of 15 or 30 feet.

Table 3.4(c) Dimensional Standards for Specific Conditional Uses

	Minimum Lot Area	Minimum Setback from Road ROW	Minimum Yard Setback	Minimum Setback from Shore or Stream Bank	Minimum Frontage
Recreation Facility/Indoor	40,000 Sq. Ft.	40 Feet	30 Feet	100 Feet	150 Feet
Recreation Facility/Outdoor	40,000 Sq. Ft.	50 Feet	50 Feet	100 Feet	200 Feet
Community Facility	40,000 Sq. Ft.	40 Feet	30 Feet	100 Feet	150 Feet
Club	40,000 Sq. Ft.	40 Feet	30 Feet	100 Feet	150 Feet
Place of Worship	40,000 Sq. Ft.	40 Feet	30 Feet	100 Feet	150 Feet
Retail Establishment	40,000 Sq. Ft.	40 Feet	30 Feet	100 Feet	150 Feet
Personal or Professional Service/Business	40,000 Sq. Ft.	40 Feet	30 Feet	100 Feet	150 Feet
Public Facility (See Section 7.10)	40,000 Sq. Ft.	60 Feet	30 Feet	100 Feet	150 Feet
Light Industry, Earth Resource Extraction(See Section 7.4), Salvage Yard (See Section 7.12)	80,000 Sq. Ft.	60 Feet	40 Feet	100 Feet	200 Feet
Gasoline Station, Motor Vehicle Repair/Service and/or Motor Vehicle Sales (See Section 7.6)	80,000 Sq. Ft.	100 Feet	40 Feet	100 Feet	200 Feet
Marina (See Section 7.8)	80,000 Sq. Ft.	40 Feet	30 Feet	NA	100 Feet
Campground (See Section 7.3)	100,000 Sq. Ft.	200 Feet	50 Feet	100 Feet	200 Feet
Mobile Home Park	See Section 7.9			100 Feet	See Section 7.9
Public Parking Lot	40,000 Sq. Ft.	60 Feet	30 Feet	100 Feet	150 Feet

Note: Commercial accessory uses and structures shall comply with the setback distance for the principal use of property.

ARTICLE 4. DEVELOPMENT REVIEW

Section 4.1: Conditional Uses

A) Applicability. The following uses require Conditional Use Approval from the Zoning Board of Adjustment before a Zoning Permit may be issued:

- 1) Initiating a new use that is listed in Table 3.4(a) as conditional (C).
- 2) Changing an existing use to a different use that is listed as conditional (C) in Table 3.4(a).
- 3) Expanding or modifying an existing conditional use so that it no longer conforms to its existing Conditional Use Approval. (Alterations or minor changes to an existing conditional use permit, that are not a “change of use” may be permitted by the Zoning Administrator as a permitted use under these regulations.)
- 4) Nonconformities according to Article 8.
- 5) Development in the Special Flood Hazard Area requiring Conditional Use Review according to Article 9.
- 6) The approval of more than one principal use within one principal building (See Section 3.4(C)).
- 7) Any other land development requiring Conditional Use Review according to these Regulations.

B) Purpose. Conditional use review ensures compliance with standards addressing the impact of proposed land uses on adjacent properties, the neighborhood or district in which the project is located, and the community at large [Section 4414 (3) of the Act]. Standards and conditions emphasize those considerations in which off-site impacts of a proposed project can be identified, avoided and/or mitigated.

C) Application Requirements. The applicant shall submit four (4) sets of site plan maps and supporting data to the Board of Adjustment which shall include the following information presented in drawn form and accompanied by written text:

- 1) An accurate map of the property showing existing features, including structures, septic system(s), large trees, streets, utility easements, off-street parking areas, rights-of-way, land use, and deed restrictions and such other features as the Board considers necessary for a proper evaluation of the application;
- 2) Name and address of the owner of record and those of adjoining lands;
- 3) Name and address of the person or firm preparing the map, scale of map, north arrow, and date of map preparation;
- 4) Site plan showing proposed structure locations and land use areas, streets, driveways, traffic circulation, parking and loading spaces, pedestrian walks, site grading, and landscaping; and
- 5) Construction sequence and time schedule for completion of each phase of development.

- D) Review Process.** The Zoning Board of Adjustment must hold a public hearing before issuing a decision for a Conditional Use Application. Public notice, public hearing, and decision requirements according to Sections 2.5 and 2.6 apply.
- E) Review Standards.** When determining the appropriateness of a proposed conditional use, the Board of Adjustment shall determine that the land development or use will not have an undue adverse effect on any of the following general conditional use criteria:
- 1) *The capacity of existing or planned community facilities.*** The demand for community services and facilities resulting from the proposed land development shall not exceed the existing or planned capacity of existing facilities or services;
 - 2) *The character of the area affected.*** A conditional use may not, by its nature, scale, or conduct, adversely change the character of the area as it exists or would exist if fully developed in accordance with the Franklin Town Plan, and as defined by the purposes of the zoning district in which the project is located;
 - 3) *Traffic on roads and highways in the vicinity.*** The estimated traffic generated by the conditional use shall not exceed the estimated volume of traffic that would be generated by any use which is permitted by right in the district. When the capacity of a road to accept increased traffic is limited, the conditional use shall not exhaust or exceed the remaining capacity of the road;
 - 4) *Bylaws now in effect.*** A conditional use must comply with bylaws and regulations in effect at the time of submission of the application, including applicable standards in these Regulations, the Town Plan and any other Town Ordinances; and
 - 5) *Utilization of renewable energy resources.*** The Board will consider whether the proposed land development will interfere with the sustainable use of renewable energy resources by diminishing the future availability of such resources or by eliminating nearby property owners' access to such resources.
- F) Conditions.** In approving a conditional use, the Board of Adjustment may attach such conditions which it may deem necessary to implement the Act and/or the Town Plan as established in Section 4.3 below.

Section 4.2: Variances

- A) Applicability.** An applicant may apply to the Zoning Board of Adjustment for a variance from the provisions of these regulations for any structure in accordance with the standards in this Section.

- B) Application Requirements.** The applicant shall submit an application prepared according to Section 4.1(C).
- C) Review Process.** The Zoning Board of Adjustment must hold a public hearing before issuing a decision for a Variance. Public notice, public hearing, and decision requirements according to Sections 2.5 and 2.6 apply.
- D) Standards.** The Board of Adjustment may render a decision in favor of the applicant only upon establishing all the following facts in its decision:
- 1) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located;
 - 2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
 - 3) That the unnecessary hardship has not been created by the applicant;
 - 4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and
 - 5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the Town Plan.
- E)** In rendering a decision in favor of the applicant for a variance, the Board of Adjustment may attach such conditions which it may deem necessary to implement the Act and/or the Town Plan as established in Section 4.3 below.

Section 4.3: Specific Conditions for Variances & Conditional Uses

- A)** The Board of Adjustment shall have the power to impose other reasonable conditions and safeguards as it deems appropriate and necessary when approving variances and conditional use applications including but not limited to:

- 1) Limiting lot coverage or height of buildings because of undue obstruction to view and reduction of light and air to adjacent property;
- 2) Controlling the location and number of vehicular access points to land development to minimize traffic hazards;
- 3) Requiring measures to minimize the adverse effects of land alterations on soil erosion, water quality, and scenic beauty as may be recommended by the County Forester, Vermont Department of Environmental Conservation, Natural Resource Conservation Service, District Highway Engineer, and other experts;
- 4) Requiring suitable landscaping where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area;
- 5) Specifying a time limit for construction of improvements to land or structures, including conditions to phase residential developments to minimize the impact on schools and other community facilities and services;
- 6) Requiring a performance bond from the applicant to ensure that the project is constructed and maintained in compliance with the permit and these Regulations; and
- 7) Any additional conditions and safeguards which the Board of Adjustment deems necessary to implement the purposes of the Act, the Municipal Plan, or these Development Regulations.

Section 4.4: Planned Unit Developments

- A) Applicability.** In accordance with Section 4417 of the Act, the Planning Commission may permit flexibility in the application of the density and dimensional standards in Article 3 of these regulations for Planned Unit Developments (PUD).
- B) Purpose.** The purpose of PUDs shall be to encourage flexibility in design and unified treatment of the development site; to promote efficient use of land; to facilitate the efficient and economical provision of streets and utilities; and to conserve the natural resources and scenic qualities of the Town.
- C) Review Process.** PUDs shall be reviewed according to the subdivision review process in Article 5. Public notice, public hearing, and decision requirements according to Section 2.5 and 2.6 apply. For PUDs that include one or more uses requiring Conditional Use Approval, these approvals shall also be required for the specific uses and shall be coordinated with PUD review to the extent practical.
- D) Application Requirements.** Applications for PUDs shall comply with the application requirements for subdivisions. When a PUD does not include the

subdivision of land, the Planning Commission may waive inapplicable application requirements. All PUDs shall require the following additional application requirements:

- 1) A brief summary of the project that explains how it meets the purposes of a PUD.
- 2) Any request for flexibility in the application of density and dimensional standards in Article 3.
- 3) Plans for the permanent maintenance and/or management of open space areas included within the development.

E) General Review Standards. The following general standards shall be met in order for the Planning Commission to approve the application:

- 1) The project shall be consistent with the Franklin Town Plan.
- 2) The minimum project size for any PUD shall be 10 acres or 10 times the minimum lot area for the applicable zoning district, whichever is greater.
- 3) In any PUD, the number of units shall not exceed the number which could be permitted, in the Planning Commission's judgment, if the land were subdivided into lots in conformance with the applicable district requirements of these Regulations.
- 4) Mixed uses shall be so arranged and buffered as to ensure visual and acoustical privacy to residents in and adjacent to the development.
- 5) The minimum setback and yard requirements for the district in which the project is located shall apply to the periphery of the development unless the Planning Commission finds it necessary to impose further requirements for setbacks, landscaping, and screening to protect the rights of adjoining property owners.
- 6) The development shall be proposed over a reasonable period of time to ensure that adequate municipal facilities and services are available.
- 7) The development shall comply with the applicable Land Development Review Standards and Specific Use Standards in Articles 6 and 7.

ARTICLE 5. SUBDIVISION APPROVAL

Section 5.1: Purpose and Applicability.

A) Purpose. These regulations are adopted for the following purposes:

- 1) To provide a common standard for the development of land;
- 2) To ensure that new land development addresses the goals and policies expressed in the Franklin Town Plan, and conforms to these and other local regulations;
- 3) To control impacts on municipal services, local tax burden, and resource lands; and
- 4) To ensure that land development serves the public good, as well as the needs of the landowner.

B) Applicability. For all proposed subdivisions of land, subdivision approval from the Planning Commission is required prior to undertaking the following:

- 1) Any contract for sale, development, or lease of any subdivided portion of a property;
- 2) Any grading, clearing, construction, land development, or other improvement (excluding forestry or agricultural activities) on a subdivided portion of a property;
- 3) Any permit for construction of a structure on a subdivided portion of property; or
- 4) The filing of a subdivision plat with the Town.

Section 5.2: Administrative Review of Two (2) Lot Subdivisions and Boundary Lot Adjustments

A) Applicability. The Zoning Administrator shall conduct an Administrative Review of two (2) lot subdivisions and boundary lot adjustments and make a recommendation to the Planning Commission for their approval.

B) Application Requirements. Two (2) lot subdivisions shall require the same application requirements as other subdivisions according to Section 5.4. Boundary lot adjustments shall require application requirements 5.4(1)(a) through (i).

C) Review Standards. The Administrative Review shall consider whether the proposal meets all applicable requirements of these Regulations.

- 1) Following the review, the Zoning Administrator shall present a draft written decision with appropriate conditions to the Planning Commission.
- 2) The Planning Commission will schedule a public hearing, warned according to Section 2.5, to review the draft decision and either deny the subdivision or boundary lot adjustment, make amendments, or approve the subdivision or

boundary lot adjustment and sign the written decision and map or plat. When amendments are required, the written decision shall be issued within 45 days in accordance with Section 2.5. The applicant shall file the map or plat in accordance with Section 5.4(F).

Section 5.3: Sketch Plan Review.

- A) Applicability.** All subdivisions require Sketch Plan Review, except boundary lot adjustments, two-lot subdivisions, and amendments to approved subdivision plans. Sketch Plan Review may be waived by the Planning Commission upon request of an applicant for a subdivision of 3 lots or less.
- B) Purpose.** Sketch Plan Review provides an opportunity for an applicant to discuss a proposed subdivision informally with the Planning Commission. The applicant may explore different approaches to subdivision design, and the Planning Commission can offer some indication that a proposal can be developed in conformance with applicable local regulations. A review at this preliminary stage of the process should highlight issues which need to be addressed in a formal application.
- C) Fees/Number of Reviews.** In order to ensure the most complete and efficient review of projects and to provide public and municipal input at the earliest stages of project development, there shall be no fee for Sketch Plan Review, and more than one sketch plan review will be permitted.
- D) Application Requirements.** An application for Sketch Plan Review shall be submitted to the Zoning Administrator at least 15 days prior to a regularly scheduled meeting of the Planning Commission. The Sketch Plan application shall consist of a statement which describes how the proposed subdivision addresses the goals and policies stated in the Town of Franklin Municipal Plan and a conceptual site plan, which may be hand drawn to scale and which shall include the following information:
- 1) Name and address of the owner of record and applicant.
 - 2) Name of owners or record of contiguous properties, including owners of parcels across a common public right-of-way.
 - 3) Boundaries and area of all contiguous land, including land separated by a public right-of-way, belonging to owner of record, and proposed subdivision.
 - 4) Existing and proposed layout of property lines; type and location of existing and proposed restrictions on land, such as easements and covenants.
 - 5) Provisions of the Zoning Regulations and any Zoning District boundaries applicable to the proposed subdivision.
 - 6) Location of existing and proposed homes and home sites, well sites, and septic systems.
 - 7) Location of existing and proposed drainage structures and drainage ways.

- 8) Type of, location, and approximate size of existing and proposed streets, utilities, and open space.
- 9) Natural features such as wetlands, shorelands, water courses, the Special Flood Hazard Area, tree lines, rock outcroppings, rare/threatened plant or animal species, geological sites, historic sites, scenic roads or vistas.
- 10) Location map showing relation of proposed subdivision to adjacent property and surrounding area.
- 11) Date, true north arrow, and scale.

E) Application Review Meeting. When a Sketch Plan Application is placed on the agenda of a Planning Commission meeting, the applicant, or a duly authorized representative, shall attend the meeting. The agenda shall serve as notice of the Sketch Plan Review. The Planning Commission shall review the application with the applicant and may discuss the requirements of these regulations for lot layout, building location, streets, improvements, drainage, sewerage, water supply, fire protection, resource protection, the availability of existing services, conformance with the planning standards of these regulations, the goals and policies of the Town Plan, or other relevant information. The Commission shall determine whether the subdivision should be reviewed as a Planned Unit Development.

F) Action on Sketch Plan. The Planning Commission shall determine whether the Sketch Plan conforms to these Regulations and any other municipal regulations in effect. Within 45 days, the Planning Commission shall issue a determination in writing with specific recommendations for subsequent submissions. The determination shall be based on the standards in these Regulations. A Sketch Plan Determination authorizes the applicant to prepare a subdivision application according to Section 5.4 below.

Section 5.4: Subdivision Review Process

A) Applicability. Applications for subdivision review shall be submitted within 6 months from the date that a Sketch Plan determination is issued by the Planning Commission. At the expiration of six (6) months from issuance of a determination, the applicant shall be required to resubmit a sketch plan in accordance with Section 5.3.

B) Application. The applicant shall submit three (3) copies of an application for approval of a subdivision to the Zoning Administrator. The application shall contain those items set forth below, plus any other items which may be required by the Planning Commission. The application shall conform to the sketch plan layout and determination to the extent practicable. The applicant may request approval of any deviations from the sketch plan layout and determination in writing as part of the subdivision review application.

- 1) Submittal Requirements.** The application shall consist of one or more site plan maps or drawings which may be printed or reproduced on paper with all dimensions shown in feet or decimals of a foot, drawn to scale, showing or accompanied by the following information:
- a) Name and address of the proposed subdivision.
 - b) Name and address of the owner of record of the property and of adjoining properties. Name and address of person or firm preparing the map. Scale of map, north arrow, and date. Name, address, and interest of the applicant in the subject property.
 - c) Map or survey of the property, prepared by a landscape architect, registered land surveyor, registered civil engineer, or registered architect, showing:
 - i) Number of acres within the proposed subdivision;
 - ii) Location of property lines;
 - iii) Existing easements, deed restrictions;
 - iv) Contours at intervals of 5 feet unless otherwise required by the Planning Commission at sketch plan review;
 - v) Buildings;
 - vi) Wooded areas;
 - vii) Streets;
 - viii) Water courses;
 - ix) Special Flood Hazard Areas; and
 - x) Other existing physical features, including large trees and rock outcroppings.
 - d) All parcels immediately adjacent to the proposed subdivision, including those separated by a public right-of-way, with the names and addresses of owners of record of such adjacent acreage.
 - e) Location and size of any existing sewers and water mains, individual or community sewage disposal systems, wells, culverts, and drains on the property to be subdivided.
 - f) Site development plan, prepared by a landscape architect, registered land surveyor, registered civil engineer, or registered architect, showing:
 - i) The proposed lot lines with size and dimensions and building envelopes;
 - ii) The location of other proposed structures and their use;
 - iii) Streets;
 - iv) Driveways;
 - v) Traffic circulation, and parking;
 - vi) Pedestrian ways;
 - vii) A landscape plan, including site grading, landscape design, street trees, and screening;
 - viii) Utility lines;
 - ix) Lighting;
 - x) Water supply sources, and sewage disposal areas; and
 - xi) Land to be set aside for public use.
 - g) Location of temporary markers adequate to enable the Commission to locate readily and appraise the basic layout in the field.

- h) Any wetlands present on the property to be developed as indicated by the Vermont Significant Wetlands Inventory Maps available at the Town Clerk's Office or through the Vermont Department of Environmental Conservation and any significant wildlife habitat as identified by the Vermont Department of Fish & Wildlife.
- i) A vicinity map drawn at the scale of not over 400 feet to the inch showing the relation of the proposed subdivision to the adjacent properties and to the general surrounding area.
- j) A detailed erosion control plan for land development on slopes of 15% or greater.
- k) Typical cross sections of the grading of roadways and of sidewalks. Road profiles of roadways within the subdivision.
- l) Construction sequence and time schedule for completion of each phase of the subdivision.
- m) Means of providing water supply to proposed subdivision, including any fireponds.
- n) Means of disposal of septic wastes.
- o) Stormwater management plan for collection and discharge of stormwater with written description and contours in sufficient detail to indicate clearly the method of stormwater management on the site.
- p) Designs for any bridges or culverts which may be required.
- q) The following supporting documentation:
 - i) Copies of proposed deeds, agreements, or other documents showing the manner in which any streets or open space, including park and recreation areas, are to be dedicated, reserved, and maintained, and in which significant natural resources are to be protected and maintained, as applicable, and a certificate from the Selectboard or Town Attorney that these documents are satisfactory. Such certificates shall not be construed, however, as acceptance by the Town of Franklin of any areas proposed to be dedicated to the Town.
 - ii) A plan showing any work required for existing streets or roads to meet the minimum standards established by these regulations, together with a statement of the proposed method of meeting the cost of such work and a time limit for such work approved by the Selectboard.
 - iii) An access permit from the Vermont Agency of Transportation or from the Town of Franklin approving any access or intersection.
 - iv) If the subdivision is to be served by public water supply or public sewage disposal, a statement from the municipal department or utility attesting to the availability of such service.
 - v) A draft of all restrictions of all types which will run with the land and become covenants.
 - vi) Any other documents required by the Planning Commission.

C) Public Hearing. A public hearing shall be held by the Planning Commission at the earliest available regularly scheduled meeting after a subdivision application is

submitted to the Zoning Administrator. The hearing shall be warned and noticed in accordance with the public notice provisions in Section 2.5.

D) Phasing. At the time the Planning Commission grants approval, it may require the subdivision to be divided into two or more phases to be developed at separate times, and may impose such conditions as deemed necessary to ensure the orderly development of the subdivision and coordination with the planned and orderly growth of the Town as reflected in the Town Plan and any capital budget and program in effect.

E) Security to Ensure Performance. The Planning Commission may require the applicant to provide security in an amount sufficient to cover the full cost of constructing any improvements required by the subdivision approval. The Commission may also require surety covering the maintenance of improvements for a period of 2 years, said surety to be equal to not less than 10% of the estimated cost of the improvements. An estimate of the full costs of such improvements and appropriate security shall be submitted prior to Final Approval. Security may be required in the form of:

- a) A surety bond, issued by a surety company authorized to do business in Vermont, to be filed with the Selectboard in form and amount satisfactory to the Board;
- b) A letter of credit, cash, escrow account, or savings bank book properly endorsed to the Town of Franklin in an amount to be determined by the Selectboard; or
- c) A performance bond from the developer or contractor in an amount acceptable to the Selectboard.

- 1) The performance guarantee shall not be released until the Planning Commission or their duly authorized representative has certified completion of the improvements in substantial accordance with the approved Final Plat and supporting documentation.
- 2) The security shall run for a term to be fixed by the Planning Commission, but in no case for a period longer than three (3) years. With the consent of the owner, the term of such bond or security may be extended for an additional period not to exceed three (3) years.
- 3) If any required improvements have not been installed or maintained as provided within the term of such performance security, the security shall be forfeited to the Town of Franklin and upon receipt of the proceeds thereof, the Town shall install or maintain such improvements as are covered by such security.

F) Filing of Final Plat Upon Final Approval of the subdivision by the Planning Commission, the subdivider shall prepare a plat for recording in conformance with the requirements of 27 V.S.A. Chapter 17. The plat shall be on linen, mylar, or canvas-backed paper clearly and legibly drawn, and the size of the sheets shall be

18 inches by 24 inches or a multiple thereof. Such sheets shall have a margin of two (2) inches outside of the border lines on the left side for binding and a one (1) inch margin outside the border along the remaining sides. Space shall be reserved for endorsement of all the appropriate agencies. Supporting documentation shall accompany the final plat in conformance with Sub-Section (3) below.

- 1) **Endorsement.** The chairperson of the Planning Commission shall endorse in writing on said plat such approval and the date.
- 2) **Filing.** The final plat with endorsement shall be filed by the applicant with the Town Clerk within 180 days of the Commission's Final Approval. After an approved plat is filed, no expiration of that approval or certification shall be applicable.
- 3) **Final Plat Specifications.** The final subdivision plat shall conform in all aspects to the application as approved by the Planning Commission, including any conditions, and shall show:
 - a) Proposed subdivision name or identifying title;
 - b) name & address of owner of record and subdivider;
 - c) name, license number, and seal of licensed land surveyor, landscape architect, civil engineer or architect;
 - d) boundaries of the subdivision and its general location in relation to existing streets or other landmarks;
 - e) scale, date, and north arrow;
 - f) Street names and lines, pedestrian ways, lots, reservations, easements, building envelopes, and area to be dedicated to public use;
 - g) All public open space or recreation land for which offers of cession are made by the subdivider, and those spaces title to which is reserved by the subdivider;
 - h) Total acreage of the subdivision and each proposed lot with lots numbered and identified;
 - i) Easements and rights-of-way, including those for utilities, water mains, sewer, and drainage;
 - j) Location of all utility poles, sewage disposal systems, water supply systems, and grading or other devices and methods for draining the area within the subdivision; and
 - k) The following supporting documentation:
 - i) If required as a condition of Planning Commission approval, a performance bond or equivalent surety to ensure completion of improvements and their maintenance for a period of two years, with a certificate from the Selectboard or Town Attorney that it is satisfied either with the bonding or surety company, or with security furnished by the subdivider;
 - ii) Methods of dedication of proposed easements, rights-of-way, and open spaces which may be required by these regulations; and

iii) Final copies of all deed restrictions and covenants which are to run with the land.

G) Revisions. No changes, erasures, modifications, or revisions shall be made on any subdivision plat after final approval, unless said plat is first resubmitted to the Planning Commission in accordance with these regulations and the commission approves the modifications.

H) Acceptance of Public Infrastructure. Final Approval by the Planning Commission shall not be deemed to constitute or be evidence of any acceptance by the town of any street, easement, utilities, park, recreational area, or open space shown on the final plat. Such acceptance may only be accomplished by formal resolution of the Selectboard.

Section 5.5: General Subdivision Review Standards

The Planning Commission shall evaluate any subdivision in accordance with the following general subdivision standards and the applicable Land Development Review Standards in Article 6. The Commission may require the subdivider to submit data addressing impacts related to these standards. In light of findings made on these standards, the Commission may require modification and phasing of the proposed subdivision or correction of any adverse impacts.

A) Characteristics of the Land. Land shall not be subdivided in such a way that structures, roads, and utilities occur on land that is unsuitable due to flooding, improper drainage, steep slopes greater than 25%, soils that are shallow to bedrock or have a high water table, rock formations, adverse earth formations or topography, utility easements or other features which will be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas. The site shall be found suitable for the proposed density of development.

B) Compatibility. The proposed land development shall be compatible with land uses, lot configuration, road network, and natural features on surrounding properties.

C) Topography. Consideration in lot layout shall be given to topographic drainage and soils conditions. Steep slopes of 25% grade or greater are unsuitable for development of structures, roads, and public utilities.

D) Lot Layout.

1) Lot Area & Density. All lots shall conform to the dimensional standards in Article 3. Lot areas and densities in these Regulations are a minimum standard, and lower densities may be required in some cases.

2) Corner Lots. Corner lots shall have sufficient width to permit the road setback along each road.

- 3) **Side Lot Lines.** Side lot lines shall generally be at right angles to straight streets, or radial to curved street lines.
- 4) **Lot Shape.** Lots with irregular shapes (curves, jogs, dog-legs, bowling alleys, etc.) shall not be approved unless warranted by conditions of topography, protection of natural resources, existing road location and/or shape or use of the tract being subdivided.

E) Protection of Land Resources. Subdivisions shall be designed to minimize adverse effects upon productive agricultural and forest land, scenic vistas and roads, and historic resources. Residential uses shall be sited so as to minimize conflicts with agricultural operations. The Planning Commission shall encourage lot layout that will conserve open areas in blocks large enough for productive agriculture and forestry. Planned Unit Development will be encouraged for major subdivisions.

F) Municipal Impacts. The anticipated tax return from the project must be equal to or exceed the cost of anticipated municipal services and facilities directly attributable to it. The proposed land development will not place an unreasonable burden on the ability of local governmental units to provide municipal, governmental, or education services and facilities.

G) Energy Conservation. Developments should be designed to allow for energy-efficient siting of buildings and accesses.

H) Open Land. The Planning Commission may, in a subdivision having lots or potential sites for six (6) or more dwelling units, require that the subdivision plat show one or more areas of character, size, shape, and location suitable to be used as open space, park, or playground.

1) Limitation. The Commission may not require the total area of such open space to exceed 15 percent of the total area of the subdivision.

2) Objectives. The following objectives shall be used to guide the design and location of required open land:

- a) Conservation of and access to natural features including river banks, streams, lakes, and ridge-tops.
- b) Retention of fish and wildlife refuge areas, and nature observation areas.
- c) Protection of water quality.
- d) Protection of natural drainage ways and flood water retention areas.
- e) Provision of land for active recreational use in appropriate areas of population concentration.
- f) Continued access to existing trails and greenways.
- g) Provision for adequate controls to ensure the permanence of open space use in areas so designated through public acquisition of easement or other suitable type of agreement.

- 3) Design.** Open land shall be designed to take the greatest possible advantage of all existing natural features noted above, and to make such space easily accessible. When a property line of a subdivision abuts existing public or community open land, the Commission may require the new open land to form a continuation of the existing open area.
- 4) Access.** To provide for maintenance and authorized access, community open space shall abut or have direct access to a street through a right-of-way dedicated to such purpose. Such right-of-way shall not be less than 20 feet wide and shall be graded in a manner suitable for traffic or pedestrians and maintenance vehicles.
- 5) Development of Open Land.** Land to be used as public open land shall be left in condition for the purpose intended. The existing natural characteristics of open land shall not be altered from its original condition until a site plan shall have been approved by the Planning Commission. The Planning Commission, as a condition of approval, may establish such conditions as to the ownership, use, and maintenance of such land as it deems necessary to assure the preservation of such lands for their intended purpose.

ARTICLE 6. LAND DEVELOPMENT REVIEW STANDARDS

Section 6.1: Abandonment of Structures

Within one year after any structure which has been destroyed, demolished, or abandoned, all structural materials and debris shall be removed from the site, and any remaining excavation shall be covered over or filled to the natural grade and seeded by the owner to prevent erosion.

Section 6.2: Filling of Land

In any district a Zoning Permit is required for the depositing of rock, concrete, stone, gravel, sand, cinders, stumps, and soil used for the filling of land. The Zoning Administrator may issue a permit provided the applicant demonstrates that the activity will not significantly alter existing drainage patterns, cause soil erosion, or result in any hazard or expense to the community. State laws governing the filling of land must be adhered to. The filling of land in the Special Flood Hazard Area shall also comply with Article 9.

Section 6.3: Height Limits

A) No structure shall exceed 35 feet in height. Building height shall be measured from the average natural grade abutting the building to the highest point of a building with the exception of chimneys and mechanical systems.

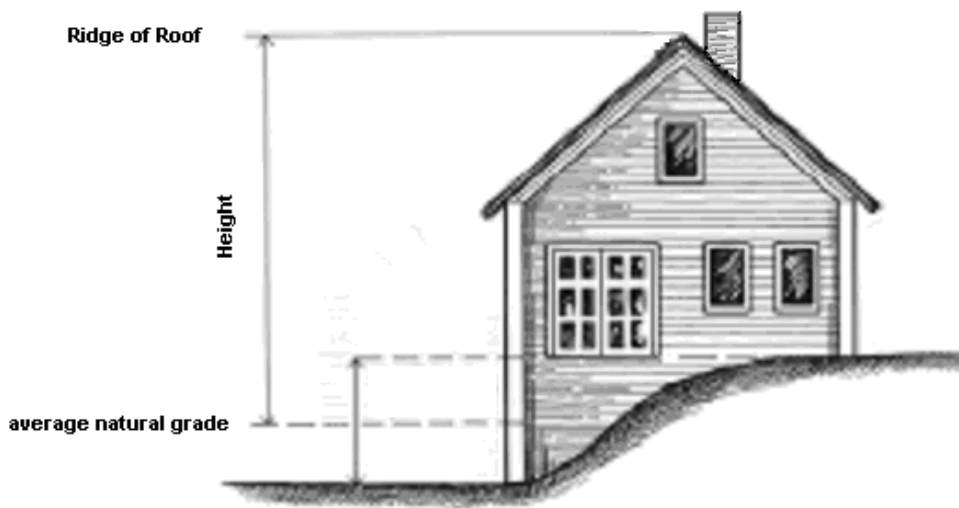


Figure 6.3: Measuring Height

- B) Under Conditional Use Review, the Board of Adjustment may permit a structure to exceed the applicable building height maximum provided that the structure does not constitute a hazard, and provided that the portion above 35 feet shall remain unoccupied except for normal maintenance.

Section 6.4: Outdoor Lighting

Outdoor lighting may be required where deemed necessary by the Planning Commission or Zoning Board of Adjustment to illuminate areas such as streets, sidewalks, and parking areas. Outdoor lighting fixtures shall be designed to direct light downward and located and adjusted so as not to cast light directly on adjacent roadways or properties.

Section 6.5: Parking

A) General Standards.

- 1) Non-residential parking lots shall be screened or hidden from public highway view and the view of persons in residential districts.
- 2) No parking or motor vehicles shall be allowed in setback areas.
- 3) Commercial parking lots adjacent to residential uses shall be set back at least 50 feet from the nearest property or street line.

B) Off-Street Parking Space Requirements.

- 1) For every building hereafter constructed, altered, extended, or changed in use, off-street parking spaces shall be provided as set forth below.

Table 6.5: Minimum Off-Street Parking Spaces for Allowed Uses	
USE	REQUIRED PARKING SPACES
Residential Uses	2 per dwelling unit
Lodging Establishments, Bed and Breakfasts, and Rooming and Boarding Houses	1 per lodging unit
Residential Care Homes/Group Homes, Other Residential Care Facilities	1 per 3 beds plus 1 per employee
Clubs	1 per 4 members
Places of Worship, Schools, Public Assembly	1 per 6 seats or per 200 sq. ft. floor space whichever is greater
Personal or Professional Service/Business	1 per 200 sq. ft. floor space

Table 6.5: Minimum Off-Street Parking Spaces for Allowed Uses	
USE	REQUIRED PARKING SPACES
Retail Establishments	1 per 250 sq. ft. floor space
Restaurants	1 per 4 seats plus 1 per employee
Light Industry	2 per 3 employees on largest shift
Unspecified Uses	As required by the Board of Adjustment

- 2) An off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room.
- 3) In addition to the requirements stated above, all multi-unit, commercial, and industrial developments must provide handicapped parking spaces in accordance with the Americans with Disabilities Act.
- 4) All off-street parking areas in excess of 10 parking spaces shall provide landscaped areas equal to at least 10 percent of the total parking area. Landscaped areas shall be regularly maintained, and must be integrated into the parking lot design rather than relegated to one concentrated location or to the edges of the parking lot.

C) Loading and Service Areas.

- 1) Where a proposed development will necessitate frequent or regular loading or unloading of goods, sufficient on-site service areas shall be provided. Service areas may be required for emergency vehicles, loading and unloading, waste disposal and collection, bus, taxi, or van service, and other purposes as may be necessitated by the proposed use.
- 2) All loading and service areas shall be located in such a manner so that parked vehicles will not block or obstruct sight visibility at intersections to or from any internal or external road or access.

Section 6.6: Pedestrian Traffic and Access

The proposal shall contain provision for pedestrian traffic which is adequate in terms of safety, convenience, access to points of destination, attractiveness, and connections with pedestrian ways on adjoining properties. Curbs and sidewalks may be required in the village districts, graded areas along one side of a street or access road may be required in rural areas.

Section 6.7: Performance Standards

- A) No land or building in any zoning district shall be used or occupied in any manner so as to create dangerous, injurious, noxious or otherwise objectionable conditions which adversely affect the reasonable use of adjoining properties.

- B) The following standards must be met by all uses in all districts. The burden of proof in meeting the standards shall fall upon the applicant. The use shall not:
 - 1) Emit any intensity of odor which is considered both offensive and uncharacteristic of the area;

 - 2) Emit any level of noise which is excessive at the property line and represents a significant increase in noise levels in the vicinity of the development so as to be incompatible with the surrounding area;

 - 3) Emit any smoke, dust, dirt, or noxious gases which endanger the health, comfort, safety, or welfare of the public or adjoining property owners, or which causes damage to property, business, or vegetation;

 - 4) Emit glare or reflection which impairs the vision of motor vehicle operators, constitutes a nuisance to other property owners, or which is detrimental to public health, safety, and welfare;

 - 5) Present a risk as to fire, explosion, or safety which endangers the public or results in an increased burden upon municipal facilities; or

 - 6) Discharge sewage, septic, or other harmful wastes into any water course or into any sewage disposal system beyond its proper capacity.

Section 6.8: Roads, Driveways, and Access

A) Access to Lots without Frontage.

- 1) No land development may be permitted on lots without either frontage on a public road, frontage on a private road approved under these Regulations, or an access by right-of-way approved under these Regulations.

- 2) Access by right-of-way to existing lots without frontage requires Planning Commission approval. Planning Commission approval shall happen concurrently with any other Board approvals required. If no other Board approvals are required, such approval shall require Subdivision Review (Sketch Plan Review may be waived).
 - a) Access by right-of-way shall be at least fifty (50) feet in width to serve year-round development lots and at least twenty (20) feet to serve seasonal

development and non-development lots.

B) Public & Private Roads. The standards of this section shall apply to all proposed public roads and to private roads serving more than three (3) lots. In addition, these standards may be applied to private driveways serving three or fewer lots when the Planning Commission determines that such standards are necessary to provide suitable access or to accommodate potential future subdivision.

1) Construction and Design Standards. All roads must comply with the minimum State of Vermont A-76 design standards and the following specific standards for road design (where the standards in Table 6.8 differ from the A-76 standards, Table 6.8 shall govern).

Table 6.8: Road Standards		
	Village District	Outside Village District
Minimum ROW Width	50 feet	50 feet
Minimum Width of Travel Lanes	24 feet	18 feet
Minimum Angle of Intersection	75 degrees	75 degrees
Width with Parking - 1 Side	24 feet	18 feet
Width with Parking - 2 Sides	28 feet	NA
Street Slope	0.5 - 10%***	0.5 - 10%***
Sight Distance at Intersections	200 feet	100 feet*
Graded Area or Shoulder	4 feet**	2 feet
<p>*Except at intersections with State or Town highways, in which case the sight distance should be 200 feet.</p> <p>**Not required where a curb and sidewalk are provided.</p> <p>***Steeper grades may be approved, but in no case shall they exceed 10% within 100 feet of an intersection with a town road or state highway.</p>		

2) Topography. Roads shall be logically related to the topography so as to produce usable lots, reasonable grades, and safe intersections in appropriate relation to the proposed use of the land to be served by such roads.

- 3) **Intersections.** New intersections along one side of an existing street shall, if possible, coincide with any existing intersections on the opposite side of the street. Otherwise, "T" intersections are encouraged except that jog intersections with center line offsets of less than 200 feet shall not be permitted. All road intersections shall be as nearly at right angles as possible, and in no case shall be less than 75 degrees.
- 4) **Sight Distances.** Sight distances should be consistent with probable traffic speed, terrain, alignments, and climactic extremes. On any corner lot, within the triangular area formed by the intersection of two roads and a line joining them at points twenty-five (25) feet away from their intersection, there shall be no obstruction to vision between the height of 3 feet and 10 feet above the average grade of each street.
- 5) **Access Management on Major Roads.** The Planning Commission shall encourage common access points serving multiple properties in order to limit the number of curb cuts onto major roads and state highways.

The following shall apply to lands outside of the village limits:

- a) Parcels accessed from State Highways shall have no more than 1 access road or driveway for each 1,000 feet of highway frontage. All such accesses shall be subject to the approval of the Vermont Agency of Transportation.
 - b) Parcels accessed from Class 2 Town roads, shall have no more than 1 access road or driveway for each 500 feet of road frontage. All such accesses shall be subject to the approval of the Selectboard.
- 6) **Through Traffic.** Minor roads shall be laid out in a manner which discourages their use by through traffic.
 - 7) **Dead Ends or Cul-De-Sacs.** Dead end roads are discouraged. No dead end road shall be permitted without a suitable cul-de-sac at its terminus with a radius of not less than 35 feet, and no such road shall be longer than 1800 feet.
 - 8) **Connectivity.**
 - a) The arrangement of roads shall connect to neighboring roads where topographically and physically feasible in order to make possible necessary fire protection, movement of traffic, and construction or extension of utilities and public services.
 - b) Where adjacent properties are not fully developed, the Planning Commission may require that traveled ways and/or rights-of-way be extended to property lines.
 - c) The Planning Commission may require two access points for large subdivisions of greater than ten (10) lots to protect the public health, safety, and welfare.

- 9) Accessibility.** All public and private roads must be accessible by emergency and service vehicles.
- 10) Upgrading Existing Roads.** Where an existing road is inadequate or unsafe, the Planning Commission or Zoning Board of Adjustment may require the applicant to upgrade that access road to the extent necessary to serve additional traffic from the subdivision.
- 11) Stormwater Management.** A storm water system shall be provided which is designed to control and accommodate storm water collected on all proposed roads and/or parking areas.
- 12) Street Names & Signs.** All subdivision roads, whether public or private shall be named and identified by signs as required by the Town.
- 13) Curb Cuts (Section 504).** Any activity for which a Zoning Permit is required, and which involves the construction or modification of a driveway intersecting with a public right-of-way shall obtain an access permit from the Selectboard for access to town roads, or the Vermont Agency of Transportation for access on state highways, prior to the issuance of a Zoning Permit.

Section 6.9: Signs

- A) Applicability.** A building permit shall be required prior to the construction, or replacement of any outdoor sign except the following:
- 1) The follow signs are exempt:
 - a) Signs installed by the Town or State on public roads.
 - b) Temporary auction, lawn or garage sale signs not to exceed two (2) in number and not to exceed 15 square feet in aggregate area. All such temporary signs shall be promptly removed when they have fulfilled their function.
 - c) On any property being sold or developed, one temporary real estate or construction sign may be permitted, not to exceed 24 square feet in area and 10 feet in height, providing such sign is promptly removed when it has fulfilled its function.
 - d) Official business directional signs and non-advertising signs for directional, safety or public service purposes provided they are in conformance with State Statute (Title 10, Chapter 21).
 - 2) The following signs are prohibited in all Zoning Districts:
 - a) Signs which impair highway safety.
 - b) Signs which are animated, flashing, or intermittently illuminated.
 - c) Signs painted or placed on rock outcrops or similar natural features.

- d) Roof signs, and wall signs which extend above the roof line.
- e) Signs which project over public rights-of-way or property lines.

B) Specific Sign Standards.

1) Signs in Rural Lands and Recreation District.

- a) One sign is permitted for each premise not to exceed eight (8) square feet in area and 6 feet in height, which announces the name, address, professional, or home occupation of the occupant of the premises.
- b) No illuminated, flashing, or signs with moving parts are permitted.
- c) No strings of lighting or pennants, or similar attention gathering media is permitted.

2) Signs in Village District.

- a) Two signs are permitted for each premise: one free-standing, and the other attached to the building. Maximum size of any sign shall be 30 square feet or a total of 50 square feet for the two signs. Maximum height of any free-standing sign shall be 20 feet.
- b) The primary purpose of all business signs shall be for identification of the business and products sold, and not for the purpose of making advertising claims.
- c) Illuminated signs shall be shielded in such a way as to produce no glare, undue distraction, confusion or hazard to vehicular traffic. Illumination shall be properly focused upon (or from within) the sign itself.
- d) No strings of lighting or pennants, or similar attention gathering media is permitted.

C) Computation of Permissible Sign Area. When computing the total permissible sign area for any use:

- 1) Existing signs shall be included in the calculation of the total sign area.
- 2) Signs printed back-to-back shall be counted as one sign.
- 3) Signs consisting of freestanding letters or numerals, shall include any intervening spaces in area calculation.
- 4) Sign measurement shall be the area included within the extreme limits of the sign surface.

Section 6.10: Site Preservation and Landscaping

A) Existing Features. Site amenities such as trees, water courses or drainage ways, scenic roads, historic sites, unique geologic features, or any other features which the Planning Commission or Zoning Board of Adjustment feels are an asset to the site

and/or community shall be preserved insofar as possible through harmonious design and appropriate construction methods in accordance with policies and goals set forth in the Town Plan.

- B) Ridgeline Development.** Developments on ridges and hilltops shall be strongly discouraged. Applicants shall present plans for mitigation of adverse aesthetic and environmental impacts from such development. The Planning Commission or Zoning Board of Adjustment may require applicants to specify building envelopes or clearing limits or limit the height of buildings to mitigate such impacts.
- C) Natural Cover.** Land shall be subdivided and improved so as to retain, insofar as possible, the natural contours and to conserve the natural cover and soil. No topsoil, sand, or gravel shall be removed from the site except in accordance with these Regulations.
- D) Erosion & Sediment Control.** All areas exposed during construction shall be protected in accordance with standards contained in the Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites published by the Vermont Department of Environmental Conservation, Agency of Natural Resources. A detailed erosion control plan shall be provided for land development on slopes of 15% or greater.

Section 6.11: Storage of Flammable Liquids

- A)** The storage of any highly flammable liquid in tanks above ground with unit capacity greater than 550 gallons shall be prohibited, unless such tanks up to and including 10,000 gallon capacity are placed not less than 80 feet from all property lines, and unless all such tanks of more than 10,000 gallons capacity are placed not less than 200 feet from all property lines.
- B)** All tanks having a capacity greater than 550 gallons shall be properly retained with dikes having a capacity not less than 1 1/2 times the capacity of the tanks surrounded.
- C)** The storage of explosive, flammable, hazardous, toxic or floatable materials is prohibited in the Special Flood Hazard Area in accordance with Section 9.2(B).

Section 6.12: Stormwater Management

- A) Removal of Spring or Surface Water.** The applicant shall remove, either by pipe or by open ditch, spring or surface water that may exist, either previous to or as a result of the land development. Such drainage facilities shall be located in the road or street right-of-way when feasible, or in unobstructed easements of adequate width

for maintenance. In design of the drainage system, natural waterways and drainageways shall be used to the fullest extent possible.

- B) Accommodation of Development Upstream.** Drainage facilities shall be designed to accommodate potential run-off from the entire upstream drainage area, based upon conditions of total potential development.
- C) Responsibility for Drainage Downstream.** To prevent flooding and erosion, the Planning Commission or Zoning Board of Adjustment may require the applicant to maintain the post-development peak storm water flows at pre-development levels and/or make down-gradient improvements.
- D) Storm Water Treatment.** The developer shall provide an appropriate level of storm water treatment to ensure that receiving waterways are not adversely affected.
- E) Design Storm.** All drainage facilities and easements shall be designed for the following storm frequency based upon the location of the facility or easement, except when the Planning Commission or Zoning Board of Adjustment determines it is appropriate to design for a less frequent event:

Subdivision System: 10 Year Storm
Town Road System: 25 Year Storm

Section 6.13: Utilities

- A) Connection & Supply.** All utility systems, existing and proposed, throughout the development shall be shown on the final plat. The applicant shall provide evidence of coordination in the design with the utility companies to ensure adequate supplies and connections.
- B) Installation.** The Planning Commission or Zoning Board of Adjustment may require underground installation of power and telephone lines wherever it is appropriate to maintain and protect the visual character of an area or to maintain property values of adjacent property owners.
- C) Easements.** Easements of sufficient width shall be provided so as to serve both the proposed development and existing and anticipated development. Such easements shall be shown on any final plat.

Section 6.14: Fire Ponds

Fire ponds may be required for major subdivisions remote from existing water sources adequate for fire fighting. Fire ponds within a subdivision shall be accessible for use in

an emergency on other nearby properties. No fire ponds may be developed on lands designated as a wetland by the state or the National Wetlands Inventory.

ARTICLE 7. SPECIFIC USE STANDARDS

Section 7.1: Accessory Dwellings

- A)** One accessory dwelling unit per owner-occupied single unit dwelling shall be a permitted use in the Village, Rural Residential/Agriculture, and the Shoreland/Recreation Districts. In the Flood Hazard Overlay and the Conservation Districts, an accessory dwelling unit shall be a permitted use unless it involves a new accessory structure when it shall require conditional use review.
- B)** An accessory dwelling unit shall be defined as an efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single unit dwelling, that is clearly subordinate to a single unit dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:
- 1) The property has sufficient wastewater capacity according to the Vermont Department of Conservation.
 - 2) The unit does not exceed 30 percent of the total habitable floor area of the single unit dwelling.
 - 3) Applicable setback, coverage, and parking requirements specified in these Regulations are met.

Section 7.2: Campers

- A)** It shall be unlawful for any person to park a camper except in an approved campground, an approved camper sales lot, or on private property with the owner's consent.
- B)** The owner of a camper may park it on private property provided it is not occupied:
- 1) Not used as a permanent dwelling; and
 - 2) Not hooked up to water or sewer utilities for more than 30 days in any calendar year.

Section 7.3: Campgrounds

- A) No person or persons shall construct or operate a new campground or expand or alter an existing campground without first obtaining conditional use approval from the Board of Adjustment and a permit from the Zoning Administrator.
- B) Campgrounds shall provide lavatory, shower, and toilet facilities in compliance with the appropriate State regulations. Sewage disposal must be in compliance with Vermont Department of Environmental Conservation regulations.
- C) A strip of land at least 40 feet wide shall be maintained as a landscaped area abutting all campground property lines. No camping vehicle, tent, or service building shall be located in this buffer area. In addition, a fence at least 4 feet high is required along all campground property lines except public road frontage. The board of adjustment may reduce or eliminate the landscaped area provision if such a modification will make it possible to preserve a scenic view from the campground, provided that privacy for adjacent property owners can be maintained.
- D) Roads within the campground shall meet the following minimum standards:

Table 7.1: Minimum Road Standards for Campgrounds		
	One Way Road	Two-Way Roads
Right of Way Width	18 feet	33 feet
Gravel Depth	12 inches	12 inches
Gravel Width	10 feet	20 feet

- E) A campground shall provide for individual vehicles, access driveways, and parking.

Section 7.4: Earth Resource Extraction

- A) Commercial removal of topsoil, rock, sand, gravel, or similar material may be permitted by the Board of Adjustment as a conditional use in certain zoning districts according to Table 3.4(a) provided it finds that the plan for removal as submitted by the applicant shall not cause any hazard to health, property, or property values. Earth resource extraction located in the Special Flood Hazard Area is also subject to Article 9.
- B) A performance bond shall be required to ensure reclamation of the land upon completion of the excavation, and topsoil, re-seeding, and re-forestation will be a requirement.
- C) In granting permission, the Board of Adjustment may consider and impose conditions relating to the following factors and others as they shall deem relevant:

- 1) Depth of excavation, in proximity to roads or adjacent properties;
- 2) Slope created by removal;
- 3) Effects upon surface drainage both onsite and on adjoining properties;
- 4) Hours of operation for blasting, trucking, and processing operations;
- 5) Effects upon use of adjacent properties due to noise, dust, or vibration;
- 6) Effects upon traffic conditions or physical damage to public highways;
- 7) Creation of a nuisance;
- 8) Temporary and permanent erosion control;
- 9) Effect upon ground and/or surface water quality;
- 10) Effect upon wildlife habitat and/or agricultural land; and
- 11) Safety and general welfare of the public.

Section 7.5: Family Child Care Home or Facility

- A)** A family child care home or facility means a home or facility where the owner or operator is to be licensed or registered by the state for child care.
- 1) A family child care home serving no more than six (6) full-time children and four (4) part-time children shall be considered to constitute a permitted single unit residential use of property (i.e. Once a zoning permit for a single unit residential use of property has been obtained, no permit is required for such a family child care home or facility on that property, although any new structures or structural alterations that would otherwise normally require a permit shall still require a permit).
 - 2) Family child care homes or facilities that serve more than 6 full-time and 4 part-time children shall be considered Personal or Professional Service/Business under these Regulations.

Section 7.6: Gasoline Stations, Motor Vehicle Repair, and Motor Vehicle Sales

Because of the nature of the materials stored and sold by these uses and the nature of the traffic patterns associated with them, gasoline stations, motor vehicle repair, and

motor vehicle sales shall comply with the following, regardless of the zoning district in which they are located.

- A) A lot shall not be located within 300 feet of any lot occupied by a school, hospital, library, or religious institution.
- B) Pumps, lubricating and other service devices shall be located at least 50 feet from the street line and side and rear lot lines.
- C) All fuel and oil shall be stored at least 35 feet from any property line.
- D) All automobile parts and dismantled vehicles are to be stored within a building or screened from public view.
- E) There shall be no more than two access driveways from the street. The maximum width of each access driveway shall be 40 feet.
- F) A suitably curbed, landscaped area shall be maintained at least five feet in depth along all street frontage not used as driveway.

Section 7.7: Home Occupations

- A) **Home Occupations.** No provision of these Regulations shall infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which is customary in residential areas and which does not change the character of the area.
 - 1) A Home Occupation may be permitted as an accessory use in all districts. A zoning permit application shall be submitted to the zoning administrator so that a determination can be made as to whether the proposed use is, in fact, a home occupation as defined by these regulations.
 - 2) In order to ensure that a home occupation will not change the character of the residential area, the owner must demonstrate that it will comply with all of the following standards:
 - a) The home occupation shall be clearly incidental and secondary to the residential use of the property, and shall be conducted wholly within the principal and accessory structures, and shall occupy less than 25% of the entire floor area of such structures.
 - b) The home occupation shall be carried on by residents of the dwelling unit. Two additional employees who are not residents of the dwelling unit are permitted.
 - c) All business activities or transactions associated with the home occupation shall be carried on entirely within the dwelling unit, no outside storage shall be permitted.

- d) No traffic shall be generated which would be uncharacteristic of the neighborhood.
- e) Parking for the home occupation shall be provided off-street and shall not be located in front yards.
- f) No objectionable noise, vibration, odor, smoke, dust, electrical disturbance, heat, or glare shall be produced by the home occupation.
- g) Exterior displays or signs other than those normally permitted in the district shall be prohibited.

Section 7.8: Marinas

- A)** In addition to meeting the Shoreland/Recreation District requirements, a marina shall have a continuous shoreline frontage of at least 100 feet.
- B)** Marinas shall provide at least one off-street parking space for each rental boat, mooring, and berth.
- C)** Marinas shall provide garbage facilities and public toilets.
- D)** Marina facilities shall be screened and located so as to protect the privacy of adjacent property owners.

Section 7.9: Mobile Home Parks

- A)** No person shall construct, expand, or alter a mobile home park without obtaining conditional use approval from the Board of Adjustment.
- B)** In addition to materials required by Section 4.1, the application materials shall include a site plan and drawings prepared by a professional engineer showing the property lines and area of the park; a contour map showing the proposed grading of the park; a layout of roads, walkways, mobile home lots, parking areas, open space, water lines, sanitary sewer and storm sewer drainage facilities, garbage collection stations, and electrical distribution.
- C)** In granting a conditional use permit, the Board of Adjustment must find that the application conforms to the following standards:
 - 1) A mobile home park shall have a contiguous area of not less than 10 acres or more than 30 acres.
 - 2) The maximum density shall not exceed an average of one mobile home per 30,000 square feet.

- 3) A strip of land at least 50 feet wide shall be maintained as a landscaped area abutting all mobile home park boundary lines. No mobile home unit, office, utility, or service building may be placed in this buffer area. However, the board may reduce or eliminate this landscaped area requirement if such modification or waiver will make it possible to preserve a scenic view from the park, provided that privacy for adjacent property owners can be maintained.
- 4) The minimum lot area shall be 20,000 square feet unless all lots are provided with either off-site water or sewer, in which case the minimum lot area shall be 15,000 square feet.
- 5) Each mobile home lot shall have at least 50 feet of frontage on a mobile home park road. All park roads shall be constructed to Class Two Town road standards.
- 6) A minimum of two parking spaces for each mobile home lot shall be provided. Each parking space shall be at least 9 feet wide by 22 feet long.
- 7) A non-porous pad of at least 4 inches thick shall be provided for each mobile home lot. A minimum yard of 15 feet and a minimum setback from the access road of 20 feet are required on each lot.
- 8) Sewage disposal, water supply, and garbage facilities shall comply with state regulations. All electric, telephone, and other utility lines shall be underground, unless the applicant can demonstrate that due to utility company standards or pricing procedures, an unreasonable financial hardship will be created.
- 9) Each mobile home park shall provide at least 1/3 of its total area for open space and recreational purposes for the use of park residents. The Board of Adjustment, as a condition of approval, may establish such conditions as to the ownership, use, and maintenance of such land as it deems necessary to assure the preservation of such lands for their intended purpose.

Section 7.10: Public Facilities Limitations

- A)** In accordance with the Act (Section 4413), the following public facilities may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off street parking and loading, traffic, noise, lighting, and landscaping or screening requirements, and only to the extent that the regulations do not interfere with the intended functional use:
- 1) State or community owned and operated institutions and facilities;
 - 2) Public and private schools and other educational institutions certified by the Vermont Department of Education;

- 3) Churches and other places of worship (see definitions), convents, and parish houses;
- 4) Public and private hospitals;
- 5) Regional solid waste facilities certified by the State (10 V.S.A. chapter 159); and
- 6) Hazardous waste management facilities for which a notice of intent to construct has been received under state law (10 V.S.A. 6606a).

Section 7.11: Residential Care Home or Group Home

A residential care home or group home, to be operated under state licensing or registration, serving not more than eight (8) persons who have a handicap or disability as defined in 9 V.S.A. Section 4501, shall be considered by right, to constitute a permitted single unit residential use of property (i.e. Once a zoning permit for a single unit residential use of property has been obtained, no permit is required for such a group home on that property, although any new structures or structural alterations that would otherwise normally require a permit still require a permit). The only exception is that no such home shall be so considered if it is located within one thousand (1,000) feet of another existing or permitted such home. Licensed or registered group homes serving more than eight persons who have a handicap or disability shall be considered Personal or Professional Service/Business under these regulations.

Section 7.12: Salvage Yards and Open Storage of Vehicles and Junk

A) Salvage Yards. Salvage yards require Conditional Use Review from the Board of Adjustment. In addition, a person shall not operate, establish, or maintain a salvage yard unless he or she:

- 1) Holds a certificate of approval for the location of the salvage yard from the Selectboard (Title 24, Chapter 61, § 2251-2257); and
- 2) Holds a certificate of registration issued by the State of Vermont to operate, establish, or maintain a salvage yard.

B) Open Storage of Vehicles and Junk. In all Zoning Districts, junk and junk motor vehicles shall be stored in an enclosed structure or in an area concealed from view.

Section 7.13: Wireless Telecommunications Facilities

New or expanded wireless telecommunications facilities that are not subject to 30 V.S.A. Section 248, including but not limited to towers and accessory structures, are subject to Conditional Use Review and the provisions of this Section. In conformance with 24 V.S.A. §4412(9), the Board of Adjustment may permit new or expanded telecommunications facilities if the Board finds that the facility will impose not more than a de minimus impact on the conditional use standards in Section 4.1 and the criteria in (F) below.

- A) The following requires a Certificate of Public Good** from the Department of Public Service under 30 V.S.A. Section 248, which preempts these Regulations:
- 1) Placement of wireless telecommunications facilities on electric transmission or generation facilities; and
 - 2) Single application to construct or install 3 or more telecommunications facilities, each at least 50.0 feet above ground level, within 3 years as part of a network.
 - 3) Any other wireless telecommunication facility determined by the Public Service Board to require a Certificate of Public Good.
- B) No Zoning Permit shall be required for the following:**
- 1) Antennae with an aggregate area of not more than eight (8.0) square feet on the largest face and which are on masts that extend not more than twelve feet above the specific roof area to which they are attached and are not located on historic landmarks and structures.
 - 2) Antenna structures less than twenty (20.0) feet in height with a primary function to transmit or receive communication signals for commercial, industrial, municipal, county, or state purposes.
 - 3) Telecommunication facilities that are used exclusively for municipal radio dispatch service or emergency radio dispatch service and which do not exceed 100.0 feet in height.
- C) Amateur radio, citizens band radio, AM or FM radio, or broadcast television service towers** that exceed the requirements in (B) above but do not exceed 100.0 feet in height are exempt from the provisions of this Section, but require a Zoning Permit as an accessory structure.
- D) Supplemental Application Requirements.** In addition to the application requirements required for Conditional Use Review a wireless telecommunication facility permit application shall also include:
- 1) A location map showing the general area within a 2.0 mile radius of the facility.
 - 2) A vicinity map showing the entire vicinity within a 2,500.0 foot radius of the facility, including the location of all existing and proposed towers, topography, public and private roads and driveways, buildings, structures, utilities, water bodies, wetlands, 50.0 foot contour lines, landscape features, historic sites, and significant wildlife habitats. It shall indicate the property lines of the proposed facility site parcel and all easements or rights-of-way needed for access from a public way to the facility.
 - 3) Elevations and proposed site plans of the facility showing all facades and indicating all exterior materials and colors of towers, buildings and equipment, as well as all landscaping, utility wires, guy wires and screening. (All plans except the vicinity map shall be drawn at a minimum scale of 1.0 inch = 50.0 feet.)
 - 4) In the case of a site that is forested, the approximate average elevation of the existing vegetation within 50.0 feet of any tower base.
 - 5) A report from a qualified Vermont Licensed Engineer that:
 - a) Describes any tower's design and elevation.

- b) Documents the elevation above grade for all proposed mounting positions for antennas to be mounted on a tower and the minimum distances between antennas.
 - c) Describes a tower's capacity, including the number, elevation, and types of antennas that the tower is proposed to accommodate.
 - d) In the case of new facilities, demonstrates that existing towers and structures within five miles of the site cannot reasonably be modified to provide adequate coverage and adequate capacity to the community.
 - e) Describes potential changes or additions to existing structures or towers that would enable them to provide adequate coverage.
 - f) Describes the output frequency, number of channels, and the power output per channel for each antenna. As an alternative, a coverage map may be provided.
 - g) Demonstrates the facility's compliance with the standards set forth in these Regulations or other applicable standards.
 - h) Provides proof that at the proposed facility site the applicant will be in compliance with all FCC Regulations, standards and requirements, and includes a statement that the applicant commits to continue to maintain compliance with all FCC Regulations, standards and requirements for radio frequency radiation (RFR).
 - i) Includes such other information as determined by the Board of Adjustment to evaluate the application.
- 6) A letter of intent committing the facility owner and its successors to permit shared use of any tower if the additional users agree to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC Regulations, standards and requirements and the provisions of these bylaws and all other applicable laws.
 - 7) In the case of an application for additional antennas or other equipment to be installed on an existing facility, a copy of the executed contract with the owner of the existing structure.
 - 8) To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the facility, or a written statement by the applicant that an EA is not required for the facility.

E) Construction Standards. Telecommunications facilities shall conform to the following construction standards:

- 1) The facility will not be built on speculation. If the applicant is not a telecommunication service provider, the applicant shall provide a copy of a contract or letter of intent showing that a telecommunication service provider is legally obligated to locate a wireless telecommunication facility on lands owned or leased by the applicant.
- 2) The facility will not project more than 20.0 feet above the average elevation of the tree line measured within 100.0 feet of the highest vertical element of the wireless telecommunication facility, unless the proposed elevation is reasonably necessary to provide adequate telecommunication service capacity or coverage

- to Franklin, or to accomplish co-location.
- 3) All telecommunication facilities shall comply with the setback provisions of the zoning districts in which facilities are located. Notwithstanding the above, in order to ensure public safety, the minimum distance of any wireless telecommunication facility to any property line, dwelling, or occupied structure shall be no less than the height of the tower, including antennas or other vertical appurtenances. This setback shall be referred to as a fall zone. In the event that an existing structure such as a barn silo, church steeple, or utility pole is proposed as a mounting for a wireless telecommunication facility, a fall zone setback may not be required.
 - 4) The facility will not be illuminated by artificial means and will not display any lights or signs except for such lights and signs as required by Federal Aviation Administration, federal or state law, or these Regulations.
 - 5) The Board of Adjustment may require the applicant to provide a bond, or other form of financial guarantee acceptable to the Board of Adjustment, to cover the cost of removal of the facility, should the facility be abandoned or cease to operate.
 - 6) The applicant demonstrates that the facility will be in compliance with all FCC standards and requirements regarding radio frequency radiation. The owner of a wireless telecommunication facility shall, on a yearly basis, file a certificate to the Zoning Administrator showing that it is in compliance with all FCC standards and requirements regarding radio frequency radiation, and that adequate insurance has been obtained for the facility.
 - 7) The facility will be properly identified with appropriate warnings indicating the presence of radio frequency radiation.
 - 8) The proposed equipment is installed on an existing wireless telecommunication facility, unless it is demonstrated by the applicant that such co-location is not structurally or spatially possible.
 - 9) The facility provides reasonable opportunity for the installation and operation of other telecommunications equipment (co-location).
 - 10) Unless otherwise approved by the Board of Adjustment, an abandoned or unused wireless telecommunication facility shall be removed within 2 years of abandonment or cessation of use. The applicant may apply to the Board of Adjustment for an extension for removal. If the facility is not removed, or an extension granted, within 2 years of abandonment or cessation of use, the Board of Adjustment may cause the facility to be removed. The costs of removal shall be assessed against the facility owner.
 - 11) Unused portions of a wireless telecommunication facility shall be removed within 1 year of the time that such portion is no longer used. Replacement of portions of a facility previously removed shall require a new permit.

F) Additional Conditional Use Criteria. In addition to the Conditional Use Standards in Section 4.2 and the construction standards in (E) above, the Board of Adjustment shall approve an application for a wireless telecommunications facility when it finds that the application does not impose more than a de minimus impact on the following criteria:

- 1) The facility will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.
- 2) The facility will not have an undue adverse aesthetic impact. In determining this, the Board of Adjustment shall consider the following factors:
 - a) The results of a balloon test, if conducted.
 - b) The extent to which the proposed towers and equipment have been designed to blend into the surrounding environment through the use of screening, camouflage, architectural design, and/or imitation of natural features.
 - c) The extent to which access roads have been designed to follow the contour of the land and will be constructed within forest or forest fringe areas and not open fields.
 - d) The duration and frequency with which the facility will be viewed from a public road or from public property.
 - e) The degree to which the facility will be screened by existing vegetation, topography, or existing structures.
 - f) Background features in the line of sight to the facility that obscure or make the facility more conspicuous.
 - g) The distance of the facility from the point of view and the proportion of the facility that is above the skyline.
 - i) The sensitivity or unique value of a particular view affected by the facility.
 - ii) Any significant disruption of a viewshed that provides context to an important historic or scenic resource.
- 3) The facility will not generate undue noise.

ARTICLE 8. NONCONFORMITIES

Section 8.1: Existing Small Lots

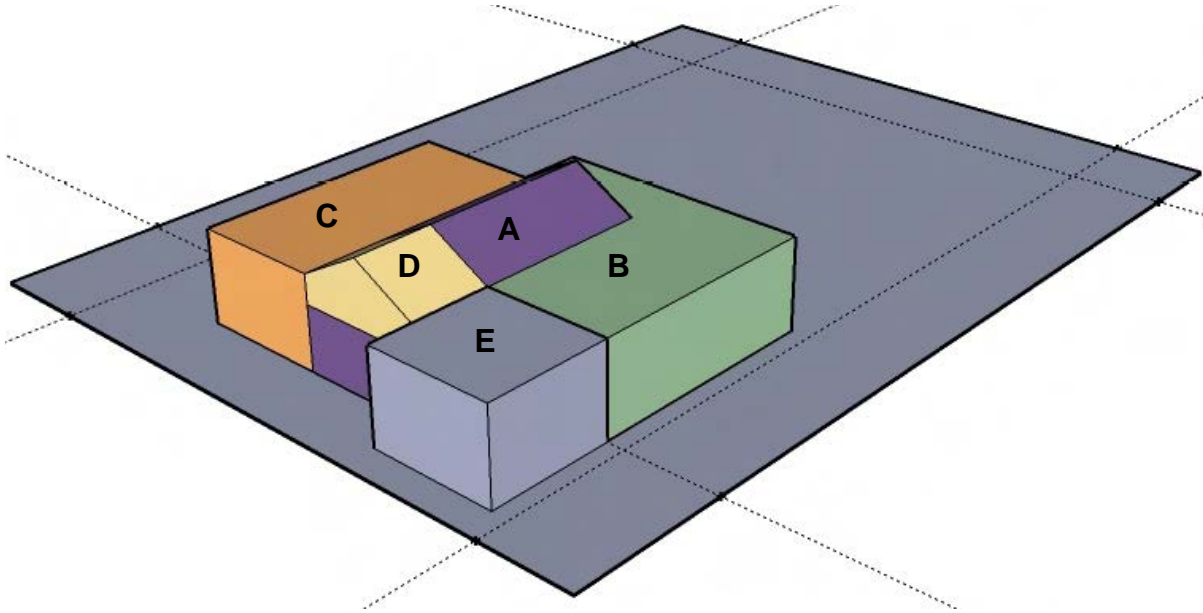
- A)** Any lot in individual, separate and non-affiliated ownership from surrounding properties, in existence on the effective date of these Regulations, may be developed for the purposes permitted in the district in which it is located even though not conforming to minimum lot area requirements, if such lot is not less than one-eighth (1/8) acre in area with a minimum width or depth dimension of forty (40) feet.
- B)** If such a lot subsequently comes under common ownership with one of more contiguous lots, the lot shall be deemed merged with the contiguous lot for purposes of this zoning regulation. However, such lot shall not be deemed merged and may be separately conveyed if:
- 1) The lots are conveyed in their preexisting nonconforming configuration; and
 - 2) On the effective date of these Regulations, each lot had been developed with a water supply and wastewater disposal system permitted by the Vermont Department of Environmental Conservation; and
 - 3) At the time of transfer, each water supply and wastewater system is functioning in a safe and adequate manner in accordance with the Wastewater and Potable Water Supply Permit; and
 - 4) The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 V.S.A. Chapter 64.

Section 8.2: Nonconforming Structures

- A)** Any nonconforming structure existing on the effective date of these Regulations may be allowed to continue indefinitely, but shall be subject to the following provisions.
- 1) The Zoning Administrator or Board of Adjustment may approve improvements to nonconforming structures provided that the improvement does not increase the degree of non-conformity in accordance with these Regulations (See Figure 8.1). If the structure is located within the Special Flood Hazard Area, it may also be subject to the substantial improvement/substantial damage provisions in Article 9.

Figure 8.1: Increasing the Degree of Nonconformity of a Structure

The building 'A' is the original nonconforming structure because it encroaches into the setback. Additions 'B', 'C' and 'D' are allowed under these regulations because they do not encroach further into the setback than Building 'A'. Addition 'E' is not allowed under these regulations because it encroaches further into the setback than Building 'A'.



- 2) Nothing in this section shall be deemed to prevent normal maintenance and repair of a nonconforming structure provided that such action does not increase the degree of nonconformance (See Figure 8.1).
- 3) The Board of Adjustment may permit, as a conditional use, the alteration or expansion of a nonconforming structure that increases the degree of nonconformity for the sole purpose of conformance with mandated environmental, safety, health, or energy codes.

Section 8.3: Nonconforming Uses

- A) Any nonconforming use which exists on the effective date of these Regulations may be continued indefinitely, but shall be subject to the following provisions. A nonconforming use:
- 1) Shall not be changed to another nonconforming use without approval by the Board of Adjustment, and then only to a use which, in the opinion of the Board, is of the same or of a more conforming nature.
 - 2) Shall not be re-established if such use has been discontinued for a period of at least one year or has been changed to, or replaced by, a conforming use. Intent to resume a nonconforming use shall not confer the right to do so.

- 3) Shall not be restored or continued for other than a conforming use after damage from any cause unless such nonconforming use is carried on uninterrupted in the undamaged part of the structure or unless:
 - a) The nonconforming use is reinstated by the commencement of construction within one year of such damage;
 - b) The construction or restoration of such structure is completed within two years; and
 - c) Approval is obtained from the Board of Adjustment.

Otherwise, the nonconforming use shall be deemed to have been discontinued.

- 4) Shall not be moved, extended, or enlarged unless the Board of Adjustment finds that such movement, extension, or enlargement:
 - a) Will not exceed 50% of its size as of the effective date of these Regulations and
 - b) Does not increase the degree of nonconformance.

B) The Board of Adjustment may permit, as a conditional use, the alteration or expansion of a nonconforming use for the sole purpose of compliance with mandated environmental, safety, health, or energy codes.

ARTICLE 9. FLOOD HAZARD REGULATIONS

Section 9.1: Lands to which these Standards Apply

These standards shall apply to development in the Flood Hazard Overlay District. This District includes the Special Flood Hazard Areas in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), and National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of these regulations.

The location of the Special Flood Hazard Area boundary shall be determined by the Zoning Administrator. If the applicant disagrees with the determination made by the Zoning Administrator, a Letter of Map Amendment from FEMA shall constitute proof.

The provisions of these Flood Hazard Regulations shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Where this flood hazard regulation imposes a greater restriction the provisions here shall take precedence.

A) Base Flood Elevations & Floodway Limits shall be determined as follows:

- 1) Where available, base flood elevations and floodway limits (or data from which a community can designate regulatory floodway limits) provided by the National Flood Insurance Program and in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations. District boundaries shall be determined by the Zoning Administrator. Appeals with respect to the district boundaries can be made to the Board of Adjustment in accordance with § 807.
- 2) In Special Flood Hazard Areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, it shall be the responsibility of the applicant to develop the base flood elevation at the site using data provided by FEMA or available from State or Federal agencies.
- 3) In Special Flood Hazard Areas where floodways and/or Base Flood Elevations have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the water surface elevation of the base flood more than 1.00 foot at any point within the community. The demonstration must be supported by technical data

that conforms to standard hydraulic engineering principles and certified by a registered professional engineer.

B) Warning and Disclaimer. The Flood Hazard Overlay District standards in this section do not imply that land outside of the areas of special flood hazard or land use permitted within Flood Hazard Overlay District will be free from flooding or flood damages. These standards shall not create liability on the part of the Town of Franklin or any town official or employee thereof for any flood damages that result from reliance on the standards of this section or any administrative decision lawfully made thereunder.

Section 9.2: Development Permits in the Flood Hazard Overlay District

A permit is required for all development within the Special Flood Hazard Area. For the purposes of this Section, development is defined as any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials in accordance with Title 44 CFR 59.1.

Table 9.1: Allowable Development in the Flood Hazard Overlay District		
P = Permitted Use C = Conditional Use X = Prohibited	Special Flood Hazard Area	Floodway
New residential or non-residential structures (including the placement of manufactured homes)	C	X
Substantial improvement, elevation, relocation, or flood proofing of existing structures	C	C
Non-substantial improvements to existing structures	P	C
Accessory structures	P	C
Building utilities	P	X
New or replacement storage tanks for existing structures	C	X
At grade parking for existing buildings	P	X
Fill as needed to elevate existing structure	P	C

Table 9.1: Allowable Development in the Flood Hazard Overlay District		
P = Permitted Use C = Conditional Use X = Prohibited	Special Flood Hazard Area	Floodway
Grading or excavation not otherwise integral to other listed land development; or the creation of a pond	C	X
Bridges, culverts, channel management activities, or public projects which are functionally dependent on stream access or stream crossing	C	C
Improvements to existing roads	C	C
Public utilities	C	X
Recreational vehicles	P	X

A) Exempted Development throughout the Special Flood Hazard Area and Floodway

The following are prohibited throughout the Special Flood Hazard Area, including the floodway:

- 1) The removal of a building or other structure in whole or in part;
- 2) Maintenance of existing roads and storm water drainage; and
- 3) All statutory exemptions in Section 1.7.

B) Prohibited Development throughout Special Flood Hazard Area and Floodway

The following are prohibited throughout the Special Flood Hazard Area, including the floodway:

- 1) Storage of any explosive, flammable, hazardous, toxic, or floatable materials, or salvage yards;
- 2) Critical facilities;
- 3) All development not exempted, permitted or conditionally permitted within the SPHA or Floodway; and
- 4) New fill except where necessary to elevate structures above the base flood elevation.

Section 9.3: Application Requirements

- A) In addition to the application requirements for permitted or conditional uses as applicable, applications for development within the Flood Hazard Area Overlay District shall also include the following information:
- 1) The location, on the site development plan, and associated elevations of all structures, roads, and water supply and wastewater facilities in relation to the channel, floodway, and base flood elevations;
 - 2) A completed FEMA "Elevation Certificate" prepared by a registered surveyor, engineer, architect or other official authorized by the state to certify building elevations, for any building constructed after the publication of the Town's Flood Insurance Rate Maps;
 - 3) Where flood-proofing is proposed (as allowed only for nonresidential buildings), a completed FEMA "Flood-Proofing Certificate" prepared by a registered professional engineer or architect who is authorized by the state to certify flood-proofing design and construction;
 - 4) A hydraulic and hydrologic analysis for any development located within the floodway; and
 - 5) A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

- B) In accordance with § 4424 (2)(D) of the Act, no zoning permit for new construction or substantial improvement of land in the Flood Hazard District shall be issued until:
- 1) A copy of the application is mailed or delivered by the Zoning Administrator or by the Board of Adjustment, to the Agency of Natural Resources; and
 - 2) Either 30 days elapse following the mailing or the Agency of Natural Resources delivers comments on the application.

Any permit issued for development in the Special Flood Hazard Area will require that all other necessary permits from State or Federal Agencies have been received before work may begin.

- C) Proposals for development within the Special Flood Hazard Area must be submitted by the Zoning Administrator or appropriate municipal panel to the Vermont Agency of Natural Resources for comment in accordance with 24 V.S.A. §4424(D). A zoning application shall not be considered complete until such comments have been received or 30 days has elapsed since the application was submitted, whichever is sooner.
- D) If the applicant is seeking a permit for the alteration or relocation of a watercourse, copies of the application shall also be submitted to the adjacent communities, the Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. Copies of such notice shall be provided to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation. A permit may be

issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Vermont Agency of Natural Resources, whichever is sooner.

Section 9.4: Certificate of Occupancy

- A)** In accordance with Chapter 117 §4449, it shall be unlawful to use or occupy, or permit the use or occupancy of any land or structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure within Special Flood Hazard Area until a certificate of occupancy is issued by the Zoning Administrator, stating that the proposed use of the structure or land conforms to the requirements of these bylaws. A certificate of occupancy is not required for structures that were built in compliance with the bylaws at the time of construction and have not been improved since the adoption of this bylaw.
- B)** Within 14 days of the receipt of the application for a certificate of occupancy, the Zoning Administrator shall inspect the premises to ensure that all permits identified on the Project Review Sheet have been acquired and that all work has been completed in conformance with the Zoning Permit and associated approvals. If the Zoning Administrator fails to grant or deny the certificate of occupancy within 14 days of the submission of the application, the certificate shall be deemed issued on the 15th day. If a Certificate of Occupancy cannot be issued, notice will be sent to the owner and copied to the lender.

Section 9.5: Flood Hazard Area Development Standards

A) All Development.

- 1) All development in the Special Flood Hazard areas shall be reasonably safe from flooding and:
 - a) Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood;
 - b) Constructed with materials resistant to flood damage;
 - c) Constructed by methods and practices that minimize flood damage; and
 - d) Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

B) Residential Development.

- 1) New construction and existing buildings to be substantially improved that are located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation.
- 2) Manufactured homes to be placed and existing manufactured homes to be substantially improved that are:
 - a) Located in a new manufactured home park or subdivision, outside of a manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in a manufactured home park or subdivision which has incurred substantial damage from a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to no less than one foot above the base flood elevation³ and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement during the occurrence of the base flood.
 - b) Located in an existing manufactured home park, where elevating a replacement home to or above base flood elevation is not possible, the lowest floor shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 48 inches in height above grade and be securely anchored to an adequately anchored system to resist floatation, collapse, and lateral movement.

C) Non-residential Development.

- 1) New construction located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation.
- 2) Existing buildings to be substantially improved located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation or together with attendant utility and sanitary facilities be designed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. (Note: while buildings need only be floodproofed to the base flood elevation for floodplain management purposes, the building must be floodproofed to an elevation at least one foot above the base flood elevation to receive credit for base flood protection for flood insurance rating purposes).
- 3) A permit for a building proposed to be floodproofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

D) Subdivisions.

- 1) New subdivision developments (including planned unit developments manufactured home parks) of more than 5 acres or 50 lots, whichever is less, shall:
 - a) Include base flood elevation data
 - b) Minimize flood damage within the flood-prone area,
 - c) Locate and construct public utilities and facilities, such as sewer, gas, electrical, and water systems, to minimize or eliminate flood damage, and
 - d) Provide adequate drainage is provided to reduce exposure to flood hazards.

E) Enclosed Areas Below the Lowest Floor.

- 1) Enclosed areas below the lowest floor which are subject to flooding shall be used solely for parking of vehicles, building access, or storage.
- 2) New construction and existing buildings to be substantially improved with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
- 3) Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b) The bottom of all openings shall be no higher than one foot above grade.
 - c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

F) Recreational Vehicles. Recreational Vehicles placed on sites with special flood hazard areas shall either:

- 1) Be on the site for fewer than 180 consecutive days,
- 2) Be fully licensed and ready for highway use, or
- 3) Be permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in section B.2(b).

G) Accessory Structures. A small accessory building that represents a minimal investment need not be elevated to the base flood elevation provided the structure meets the following requirements:

- 1) The structure must only be used for parking or storage,

- 2) The structure must have the required openings to allow floodwaters in and out,
- 3) The structure must be constructed using flood resistant materials below the Base Flood Elevation,
- 4) The structure must be adequately anchored to resist flotation, collapse, and lateral movement, and
- 5) All building utility equipment including electrical and heating must be elevated or floodproofed.

- H) Water Supply Systems.** New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- I) Sanitary Sewage Systems.** New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- J) On-Site Waste Disposal Systems.** On-site wastewater disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- K) Watercourse Carrying Capacity.** The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.

Section 9.6: Standards for Review of Nonconforming Structures

The Zoning Board of Adjustment may approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a regulated flood or other hazard area, subject to compliance with applicable federal and state laws and regulations, and provided that the following criteria are met:

- A)** The appropriate municipal panel finds that the repair, relocation, or enlargement of the nonconforming structure is required for the continued economically feasible operation of a nonresidential enterprise.
- B)** The appropriate municipal panel finds that the repair, relocation, or enlargement of the nonconforming structure will not increase flood levels in the regulatory floodway, increase the risk of other hazard in the area, or threaten the health, safety, and welfare of the public or other property owners.
- C)** The permit so granted states that the repaired, relocated, or enlarged nonconforming structure is located in a regulated flood or other hazard area, does not conform to the regulations pertaining to that area, and will be maintained at the risk of the owner.

Section 9.7: Variances to the Development Standards

Variances shall be granted by the Board of Adjustment only in accordance with 24 V.S.A. § 4469 and in accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations. A decision in favor of the appellant shall be granted if all the following facts are found, and the supporting findings are specified in the decision.

- A) Variances are generally limited to a lot size less than one-half acre relating to historical structures (provided the proposed repair or rehabilitation will not preclude the structure’s continued designation as an historic structure), or a necessary development functionally dependent on stream access.
- B) The variance, if authorized shall be issued by the AMP only upon:
 - 1) Determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - 2) Determination that the variance will not result in increased flood heights, increased susceptibility to flooding or erosion, additional threats to public safety or infrastructure (including emergency services during flood events), or extraordinary public expense; and
 - 3) The variance will not increase the potential of materials being swept onto other lands or into the stream and causing damage to others.
- C) The variance if granted will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan.
- D) Any variance issued will inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

Section 9.8: Recording Requirements

The Zoning Administrator shall maintain a record of development within the Flood Hazard Area Overlay District including:

- A) All permits issued for development in areas of special flood hazard;
- B) The elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings;
- C) The elevation, in relation to mean sea level, to which buildings have been floodproofed;
- D) All flood proofing certifications required under this regulation; and

- E) All variance actions, including justification for their issuance.

Section 9.9: Violation of Flood Hazard Area Regulations

- A) Where a violation of the Flood Hazard Overlay District standards and regulations has not been cured after a warning notice has been sent in accordance with 2.8(D), the Zoning Administrator shall submit a declaration to the Administrator of the NFIP requesting a denial of flood insurance. Section 1316 of the National Flood insurance Act of 1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations. The declaration shall consist of:
- 1) The name of the property owner and address or legal description of the property sufficient to confirm its identity or location,
 - 2) A clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance,
 - 3) A clear statement that the public body making the declaration has authority to do so and a citation to that authority,
 - 4) Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance, and
 - 5) A clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

Section 9.10: Flood Hazard Definitions

Definitions in this section apply only to the Flood Hazard Regulations in this article. Additional definitions are found in Article 10.

AREA OF SPECIAL FLOOD HAZARD: See special flood hazard area.

BASE FLOOD: The flood having a one percent chance of being equaled or exceeded in any given year (commonly referred to as the 100-year flood).

BASE FLOOD ELEVATION (BFE): The height of the base flood, usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or average depth of the base flood, usually in feet, above the ground surface.

BASEMENT: Any area of the building having its floor elevation below ground level on all sides. A "walk-out" basement whose floor is at ground level on at least one side of the house, usually with a door on that side is not considered a "basement" for the purpose of the flood hazard regulations.

COMMON PLAN OF DEVELOPMENT: Where a structure will be refurbished over a period of time. Such work might be planned unit by unit.

CRITICAL FACILITIES: Include police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities, and other structures the community identifies as essential to the health and welfare of the population and that are especially important following a disaster. For example, the type and location of a business may raise its status to a Critical Facility, such as a grocery or gas station that survive a flood and now are the only points for food and gas.

DEVELOPMENT: Any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the initial floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FILL: Any placed material that changes the natural grade, increases the elevation, or diminishes the flood storage capacity at the site.

FLOOD: (a) A general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

FLOOD INSURANCE RATE MAP (FIRM): An official map of a community, on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. In some communities the

hazard boundaries are available in paper, pdf, or Geographic Information System formats as a Digital Flood Insurance Rate Map (DFIRM).

FLOOD INSURANCE STUDY: An examination, evaluation and determination of flood hazards and, if appropriate, the corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.

FLOODPLAIN OR FLOOD-PRONE AREA: Any land area susceptible to being inundated by water from any source (see definition of “flood”).

FLOOD PROOFING: Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. Please note that where the Special Flood Hazard Areas have established base flood elevations, the extent of FEMA floodways may be shown on a separate series of panels

FUNCTIONALLY DEPENDENT USE: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

HISTORIC STRUCTURE: Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) By an approved state program as determined by the Secretary of the Interior or (ii) Directly by the Secretary of the Interior in states without approved programs.

LETTER OF MAP AMENDMENT (LOMA): A letter issued by the Federal Emergency Management Agency officially removing a structure or lot from the flood hazard zone based on information provided by a certified engineer or surveyor. This is used where structures or lots are located above the base flood elevation and have been inadvertently included in the mapped special flood hazard area.

LOWEST FLOOR: The lowest floor of the lowest enclosed area, including basement, except an unfinished or flood resistant enclosure, usable solely for parking of vehicles,

building access or storage in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

MANUFACTURED HOME: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION: For development in the Flood Hazard Area Overlay District, a **manufactured home park or subdivision** shall mean a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale and a **new manufactured home park or subdivision** shall mean a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

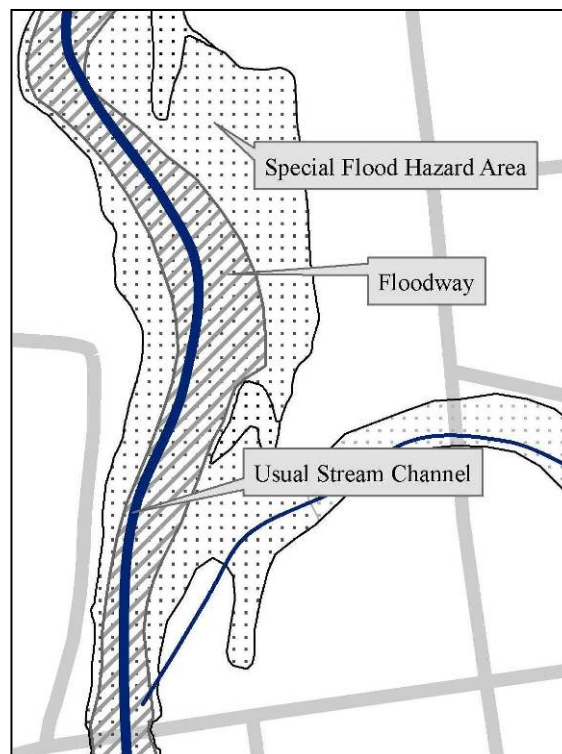
MINOR IMPROVEMENT: Any repairs, reconstruction, or improvement of a structure (other than customary maintenance), the cost of which is less than fifty (50) percent of the market value of the existing structure.

NEW CONSTRUCTION: Structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. For the purposes of determining insurance rates, "new construction" means structures, including manufactured homes, for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

NON-RESIDENTIAL: Includes, but is not limited to: small business concerns, churches, schools, nursing homes, farm buildings (including grain bins and silos), pool houses, clubhouses, recreational buildings, government buildings, mercantile structures, agricultural and industrial structures, and warehouses.

RECREATIONAL VEHICLE: A vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

SPECIAL FLOOD HAZARD AREA: The floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. For purposes of these regulations, the term “area of special flood hazard” is synonymous in meaning with the phrase “special flood hazard area”. This area is usually labeled Zone A, AO, AH, AE, or A1-30 in the most current flood insurance studies and on the maps published by the Federal Emergency Management Agency. Maps of this area are available for viewing in the Town Office or online from the FEMA Map Service Center: msc.fema.gov. Base flood elevations have not been determined in Zone A where the flood risk has been mapped by approximate methods. Base flood elevations are shown at selected intervals on maps of Special Flood Hazard Areas that are determined by detailed methods. Please note, where floodways have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps.



START OF CONSTRUCTION: Includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

STRUCTURE: A walled and roofed building, as well as a manufactured home, and any related built systems, including a gas or liquid storage tanks.

SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT: Any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of these regulations, the cost of which, over three years, or over a the period of a common plan of development, cumulatively equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

VIOLATION: The failure of a structure or other development to be fully compliant with these regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

ARTICLE 10. DEFINITIONS

Section 10.1: Interpretation (Section 700)

Except where specifically defined herein, all words used in these regulations shall carry their customary meaning. The word "shall" is mandatory and the word "may" is permissive. Any interpretation by the Zoning Administrator may be appealed to the Board of Adjustment for a declaratory ruling. In such cases, the Board shall base its ruling upon the following definitions, state statute, and the need for reasonable and effective implementation of these Regulations.

Section 10.2: Definitions (Section 710)

ACCESSORY USE/STRUCTURE: A use or structure which is incidental and subordinate to the principal use or structure and located on the same lot. Examples - swimming pools, barns, garages, tool sheds and other out buildings. (*Pages 18, 47, 50, 53, 54, 79, 80*)

ACRE: For the purpose of these Regulations, an acre shall mean 40,000 square feet. (*Pages 19, 25, 29, 51, 58*)

ALTERATION: Structural change, rearrangement, change of location, or addition to a building. (*Pages 5, 21, 24, 49, 53, 59, 60, 80*)

BED AND BREAKFAST: An existing residential building that is used as a residence and which contains sleeping rooms, with or without individual sanitary facilities, for rental accommodation for durations not typically more than two (2) weeks, which serves breakfast to guests and may serve other meals to guests. (*Pages 17, 37*)

BUILDING: Structure not readily moveable (meaning without axels and wheels) consisting of a roof supported by columns or walls intended for the shelter or enclosure of persons, animals, or personal property. (*Pages 5, 24, 28, 34, 37, 38, 43, 44, 48, 50, 52*)

CAMPER: Any motorized or nonmotorized vehicle mounted on wheels and used as sleeping, camping, or living quarters. Includes a camper body mounted on a truck, but not a mobile home. (*Pages 47*)

CAMPGROUND: Any lot or property which is used for the purpose of providing temporary access to 4 or more campers, recreation vehicles, or tents for vacation or recreation purposes. (*Pages 18, 20, 47, 48*)

COMMERCIAL: An activity involving the provision of facilities, goods, or services (other than by municipal, state, or federal governments) to others in exchange for payment of a purchase price, fee, contribution, or other object or consideration having value. (Pages 12, 17, 37, 38, 48, 80, 81)

COMMUNITY FACILITY: Any meeting hall, place of assembly, museum, art gallery, library, school, church, or other similar type of establishment which is not operated primarily for profit, excluding government facilities. (Pages 18, 20)

CONSTRUCTION: Substantial exterior improvements or new assembly or placement of a structure on a site, including any related site preparations, excavation, and grading. (Pages 2, 5, 6, 7, 21, 24, 26, 30, 40, 41, 42, 44, 55, 56, 60, 78, 80)

DWELLING UNIT: One or more rooms, designed, occupied, or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for exclusive use of a single household. (Pages 19, 34, 37, 47, 50, 78, 79, 80, 81)

DWELLING UNIT, SEASONAL: A dwelling unit which is not a primary residence of the owner or occupant, and is occupied only on a part-time, seasonal basis for less than 180 days per year. (Pages 17, 19)

DWELLING UNIT, YEAR-ROUND: A dwelling unit which is the primary residence of the owner or occupant, and is occupied for more than 6 consecutive months out of the year. (Pages 17, 19)

DWELLING, TWO UNIT: A building on a lot containing two dwelling units. (Pages 17, 19)

DWELLING, MULTI-UNIT: A building on a lot containing more than two dwelling units. This includes condominium style attached dwelling units. (Pages 17, 19)

DWELLING, ACCESSORY: An efficiency or one bedroom apartment located within or appurtenant to a single unit dwelling, that is clearly subordinate to a single unit dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. (Pages 17, 47)

EXCAVATION: Any breaking of ground and extraction or movement of earth or rock, or any alteration of existing drainage patterns which substantially affects adjacent properties. Common agricultural tillage, ground care, gardening or excavations in cemeteries shall be exempt. (Pages 7, 36, 48, 49, 77, 78)

FARM STRUCTURE: A structure used by a person for agricultural production that meets one or more of the following:
a) Is used in connection with the sale of \$1000 or more of agricultural products in a normal year; or

- b) Is used in connection with the raising, feeding, and management of at least the following number of adult animals: four equines; five cattle or American bison; fifteen swine; fifteen goats; fifteen sheep; fifteen fallow deer; fifteen red deer; fifty turkeys; fifty geese; one-hundred laying hens; two-hundred and fifty broilers, pheasant, Chukar partridge, or Coturnix quail; three camelids; four ratites (ostriches, rheas, and emus); thirty rabbits; one hundred ducks; or one-thousand pounds of cultured trout; or
- c) Is used by a farmer filing with the Internal Revenue Service a 1040 (F) income tax statement in at least one of the past two years; or
- d) Is on a farm with a business and farm management plan approved by the Secretary. (Pages 2, 6)

FRONTAGE: The length of the front lot line for a single parcel of land which runs contiguous to and parallel with public right-of-way or private street or easement which it borders. (Pages 16, 19, 20, 39, 50, 52)

HEIGHT (BUILDING): The distance measured from the average natural grade abutting the building to the highest point of a building with the exception of chimneys and mechanical systems. (Pages 5, 6, 24, 36, 37, 44, 52)

HOME OCCUPATION: A minor portion of a dwelling unit used for an accessory business that is customary in residential areas and that does not have an undue adverse effect upon the character of the residential area in which the dwelling is located. (Pages 17, 43, 50, 51)

INTERESTED PERSON: A party who may legally appeal to the board of adjustment or Environmental Court as prescribed by Section 4465b of the Act generally including any of the following: the party owning title to the subject property, or the designated agent of said party; a person owning or occupying property in the immediate neighborhood per the Act, Section 4465(b)(3); any 10 property owners in the town who file a petition with the board of adjustment per the Act Section 4465(b)(4); the selectboard of the town, or of any adjoining town; and certain state agencies. (Pages 10, 11)

JUNK: Old or scrap copper, brass, iron, steel and other old or scrap nonferrous material, including but not limited to rope, rags, batteries, glass, rubber debris, waste, trash or any discarded, dismantled, wrecked, scrapped or ruined motor vehicles or parts thereof. (Pages 53, 78, 81)

JUNK MOTOR VEHICLE: A discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or parts thereof, or a motor vehicle, other than an on-premise utility vehicle, which is allowed to remain unregistered or uninspected for a period of 90 days from the date of discovery. (Page 53)

LAND DEVELOPMENT: The division of a parcel of land into two or more parcels; new construction, substantial improvement, replacement, or relocation of any structure; enlargement of any mining, excavation, or landfill; and any change in the use of any

structure or land, or extension of the use of land. See also definition of development for the Special Flood Hazard Area in Section 9.10. (Pages 1, 4, 5, 7, 8, 16, 21, 22, 24, 25, 26, 30, 33, 34, 36, 39, 44, 78)

LIGHT INDUSTRY: A light manufacturing or warehousing facility customary in a rural community which does not generate traffic more than a yearly average of 50 vehicles per day. Light Industry includes but is not limited to saw mills, slaughter houses, lumber yards, and other similar uses customary in a rural community. (Pages 18, 20, 38)

LODGING ESTABLISHMENT: A building or buildings containing rooms which are rented for money or other compensation as sleeping units for transients, each sleeping unit consisting of at least a bedroom and a bathroom (shared bathrooms are also permitted). Included are hotels, motels, tourist courts, cabins, motor lodges, and the like. (Pages 17, 19, 37)

LOT: A designated parcel, tract or area of land, established by plat, subdivision, or as otherwise allowed by law, to be separately owned, used, developed or built upon. A lot divided by a State or Town Highway does not automatically create a subdivision of that lot. (Pages 19, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, 39, 40, 41, 47, 50, 51, 52, 58, 76, 77, 78, 79, 80, 82)

LOT AREA: Total area within the property lines excluding any part thereof lying within the boundaries of an existing or proposed street. (Pages 16, 19, 25, 33, 52, 58, 79)

MARINA: A place for docking, mooring, storing, selling, servicing, or repairing boats, including the sale of fuel and supplies, and provision of lodging, food, beverages, and entertainment as accessory uses. (Pages 17, 20, 51)

MOBILE HOME: A prefabricated dwelling unit which is designed for long-term and continuous residential occupancy, is designed to be moved on wheels as a whole or in sections, and is ready for occupancy upon arrival at the site except for incidental unpacking, assembly, connections with utilities, and placement on supports or foundation. (Pages 17, 20, 51, 52, 76, 79)

MOBILE HOME PARK: Any parcel of land under single or common ownership or control which contains, or is designed, laid out, or adapted to accommodate two or more mobile homes, but not including a premises used solely for the display or sales of mobile homes. (Pages 17, 20, 51, 52)

MOTOR VEHICLE REPAIR/SERVICE AND/OR SALES: An establishment providing sales and/or repair or servicing of automobiles, trucks, farm, construction equipment, and/or other motorized vehicles. Includes dealerships, body shops, mobile home and camping vehicle sales & service establishments, auto service and repair shops or garages. (Pages 18, 20, 49, 50)

NON-CONFORMING STRUCTURE: Structure not conforming to the zoning regulations covering bulk, dimensions, height, area, yards, density, or off-street parking or loading requirements, where such structure complied with all applicable laws, ordinances, and regulations prior to enactment of these regulations as amended (24 V.S.A. Section 4412(7)). (Pages 58, 59)

NON-CONFORMING USE: Use of land or structure which does not conform to all zoning regulations where such use conformed to all applicable laws, ordinances, and regulations prior to enactment of these regulations as amended (24 V.S.A. Section 4412(7)). (Pages 59, 60)

PARCEL: See Lot.

PARKING SPACE: Off-street area exclusive of loading, access, and maneuvering areas, landscaped areas, etc., to be used as a temporary storage space for one motor vehicle at a time. (Pages 37, 38, 51, 52)

PERSONAL OR PROFESSIONAL SERVICE/BUSINESS: Establishments engaged in providing services involving the care of a person, personal goods or providing services based on a recognized profession. (Pages 18, 20, 37, 49, 53)

PLANNED UNIT DEVELOPMENT (PUD): An area of land to be developed as a single entity for a number of dwelling units and/or commercial or industrial uses, the plan for which does not correspond in lot area or bulk, lot coverage, setbacks, and open space to the regulations established in the districts where such developments are allowed. (Pages 9, 16, 24, 25, 28, 34)

PRINCIPAL BUILDING/STRUCTURE/USE: A building, structure or use directly involved with the primary purpose of ownership on a particular lot, which, together with its accessory structures/uses, constitutes all structures and uses of said lot. (Pages 16, 21, 50)

PUBLIC FACILITIES: Includes the construction and alteration of municipal, state, or federal government facilities or other quasi-public institutions. Includes correctional institutions, hazardous waste management facilities, water supply and sewage treatment facilities, and facilities for police, fire, and ambulance. Excludes public utility power generating plants and transmission facilities regulated under 30 V.S.A. Section 248. (Pages 18, 20, 52, 53)

PUBLIC PARKING LOT: A parking area whether within a covered structure or outside available to the general public, with or without payment of a fee. Includes parking lots and parking garages. (Page 18)

RECREATION FACILITY/INDOOR: Includes bowling alley, theater, table tennis and pool hall, skating rink, gymnasium, swimming pool, hobby workshop, and other public or commercial indoor recreation. (Pages 18, 19)

RECREATION FACILITY/OUTDOOR: Includes golf course, golf driving range, shooting/archery range, swimming pool, skating rink, tennis court, riding stable, park, beach, recreation stadium, ski trails, and other places of outdoor public or commercial recreation. (*Pages 18, 20*)

RESIDENTIAL CARE HOME/GROUP HOME: A state licensed or registered residential care home serving not more than 8 persons who are handicapped or developmentally disabled as defined in 9 V.S.A. Section 4501. In accordance with the Act [Section 4412G], such a group home shall be considered by right to constitute a permitted single unit residential use of property, except that no such home shall be so considered if it is located within 1,000 feet of another such home within the Growth Center. For the purposes of these Regulations, a group home shall also include an emergency shelter for up to 8 adults and/or children. (*Pages 18, 37, 53*)

RESTAURANT: An establishment where food and/or drink are prepared and served on-site and may be consumed on or off-site. (*Pages 18, 19, 38*)

RETAIL ESTABLISHMENT: Any enclosed business concerned primarily with the sale of produce, products, goods, equipment, or commodities. Excludes drive-in facilities, free-standing retail stands, gasoline or motor vehicle service stations, motor vehicle sales facilities, restaurants, and salvage yards. (*Pages 18, 20, 38*)

ROAD: See Street.

ROOMING/BOARDING HOUSE: A residential building where more than two persons are supplied with and charged for meals or sleeping accommodations or both. (*Page 17*)

SALVAGE YARD: Any place of outdoor storage or deposit for storing, keeping, processing, buying, or selling junk or as a scrap metal processing facility. Salvage yard also means any outdoor area used for operation of an automobile graveyard. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs. (*Pages 18, 53*)

SETBACK: The nearest distance measured horizontally from the furthest protruding point of a structure to the property line, center line of the right-of-way, and/or mean water mark of Lake Carmi, as applicable. (*Pages 2, 6, 7, 16, 17, 19, 25, 33, 37, 47*)

SIGN: Any device, structure, building, or part thereof, which is used to bring a subject to the attention of the public. (*Pages 5, 6, 42, 43, 51*)

SITE PLAN: A drawing to scale of a proposed development and surrounding area including information required by Article 4 or 5 of these regulations and any other information which may be required to determine compliance with the provisions of these Regulations. (*Pages 21, 27, 28, 35*)

STREET: Public way for vehicular traffic which affords the principal means of access to abutting properties. (Pages 6, 21, 24, 27, 28, 29, 33, 36, 37, 47, 49, 50, 53, 58, 59, 60, 78, 79, 80, 81, 82)

STRUCTURE: An assembly of materials for occupancy or use, which requires a fixed location on the ground in order to be used. Included in addition to buildings are signs, garages, carports, porches, walls, swimming pools, and any other out-buildings or building features. Not included are sidewalks, driveways, fences, and temporary docks or floats. (Pages 2, 5, 6, 7, 16, 18, 19, 21, 22, 24, 26, 27, 29, 33, 36, 37, 47, 49, 50, 53, 58, 59, 60, 76, 77, 78, 79, 80, 81, 82)

USE: Specific purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or is intended to be occupied. (Pages 1, 2, 5, 6, 7, 9, 12, 13, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 29, 32, 33, 34, 35, 37, 38, 39, 40, 41, 43, 47, 48, 49, 50, 51, 52, 53, 59, 60, 76, 77, 78, 79, 80, 81, 82)

WIRELESS TELECOMMUNICATION FACILITY: A tower or other support structure, including antennae, related equipment, and base structures, which will extend 20 or more feet vertically, and be used primarily for communication or broadcast purposes to transmit or receive, communicate on or broadcast signals. (Pages 18, 53, 54, 55, 56)

YARD: Space on a lot not occupied with a building or structure. (Pages 6, 19, 25, 33, 51, 52, 80, 82)