

# **THE TOWN OF RICHFORD**

## **ZONING BYLAWS**

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## **ARTICLE 1. PURPOSE AND APPLICABILITY**

### **SECTION 1.1 TITLE**

These regulations shall be known as the Richford Zoning Bylaws.

### **SECTION 1.2 PURPOSE**

The purpose of these bylaws is to promote the health, safety, and general welfare of the inhabitants of Richford, Vermont, to provide for orderly community growth, and to maintain and enhance the natural beauty and environment of the town.

The Zoning Bylaws classify and guide the uses of land, buildings, and structures in the Town of Richford in accordance with the Town Plan and the Vermont Planning and Development Act, Title 24 V.S.A. Chapter 117, hereinafter referred as the “Act”. The bylaws are designed to implement the purposes and policies set forth in the Town Plan and the Act.

### **SECTION 1.3 APPLICABILITY**

For the purposes of these bylaws, the Town of Richford is divided into nine (9) zoning districts. Before commencing land development or subdividing any land within any Richford zoning district (except for exemptions noted in Section 2.1(C) and (D)), all permits and approvals as required by these bylaws must be obtained. Any structure or use that was lawful prior to the adoption, revision, or amendment of the Richford Zoning Bylaws but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district shall be considered a nonconformity and shall comply with Section 4.3.

### **SECTION 1.4 INTERPRETATION**

Except where defined in Article 7 of these bylaws, all words shall carry their customary meanings. Any interpretation of words or provisions in these bylaws by the Zoning Administrator may be appealed to the Development Review Board for a declaratory ruling. The Board shall publish, and update from time to time, such rulings of interpretation to ensure consistent and uniform application of these bylaws.

### **SECTION 1.5 AMENDMENT OR REPEAL**

Zoning amendments will be prepared in accordance with the requirements of Section 4441 and 4442 of the Act.

### **SECTION 1.6 SEVERABILITY**

In the event any provision of this bylaw is held unconstitutional or invalid by a court of competent jurisdiction, all other unaffected provisions shall remain in force.

## ARTICLE 2. PERMITS AND APPROVALS

<b>TABLE 2.1</b> <b>MUNICIPAL PERMITS AND APPROVALS: TOWN OF RICHFORD</b>			
<b>Permit/Approval</b>	<b>Required for</b>	<b>Issued by</b>	<b>See</b>
Zoning Permit	All land development as defined in Article 7, including signs, accessory structures, conversions and changes of use, and minor subdivisions, unless specifically exempted from these regulations under section 2.1.	Zoning Administrator	Section 2.1
Conditional Use Approval	All uses classified as conditional uses in Table 3.2, expansions to nonconformities under Section 4.3, and structures taller than 35 feet under Section 4.5.	Development Review Board	Section 2.2
Site Plan Approval	All uses identified as requiring site plan review in Table 3.2 and access by right of way to lots without frontage on a public road under Section 4.3.	Development Review Board	Section 2.3
Variance Approval	Requests for a variance from the provisions of these bylaws.	Development Review Board	Section 2.4
Waiver Approval	Requests for a waiver from the setback and/or frontage provisions of these bylaws.	Development Review Board	Section 2.5
Flood Hazard Area Development Approval	Requests for land development in the Flood Hazard Overlay District.	Zoning Administrator/ Development Review Board	Section 2.6
Major Subdivision Approval	All major subdivisions as defined in Article 7.	Development Review Board	Section 2.7
Planned Unit Development (PUD) Approval	Land subdivision and/or land development, which incorporates modifications from the provisions of these regulations to meet specific purposes as specified in Section 2.8 of these regulations.	Development Review Board	Section 2.8
Certificate of Occupancy	New construction for which a zoning permit has been issued prior to occupancy. <i>Note: This is different from a certificate of compliance, which is not required under these bylaws but may be requested by financial institutions during property transfers.</i>	Zoning Administrator	Section 2.1(F)
Appeal of a Zoning Administrator Decision	Any interested person may appeal any decision or act of the Zoning Administrator to the Development Review Board. <i>Note: Appeals of the Development Review Board are made to the Environmental Court in accordance with Section 6.2.</i>	Development Review Board	Section 6.2

## SECTION 2.1 ZONING PERMIT.

- A) A Zoning Permit issued by the Zoning Administrator is required for all land development, except as exempted below. To issue a Zoning Permit, the Zoning Administrator shall find that the proposed land development conforms to the dimensional requirements for the zoning district within which it is located in Article 3, meets applicable General Regulations in Article 4, and has obtained any required approvals from the Development Review Board. Required approvals may include conditional use approval, site plan approval, major subdivision approval, planned unit development approval, flood hazard area development approval, a variance, or a waiver.

It shall be the responsibility of the landowner (or authorized agent) to obtain a zoning permit and any associated approvals required by this bylaw prior to the commencement of any land development. Zoning permits shall be effective for a twelve-month period (see Section 6.1(G)) and shall run with the land. A twelve-month extension may be granted if active construction has continued for, but has not been completed within, the initial twelve-month period (See Section 6.1 (H)).

For the purposes of the Richford Zoning Bylaws, **land development** is defined as:

- New construction, structural alteration, replacement, or relocation of any structure;
- The division of one parcel into two or more parcels;
- The new placement, replacement, change in size, or relocation of any sign;
- The new placement, replacement, change in size or relocation of any fence.
- Any new use or change in use of any structure, or land, or extension of use of land; and
- In the Flood Hazard Overlay District 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 the Flood Hazard Overlay District.

- B) **Local Exemptions.** The following uses and structures, if located outside the Flood Hazard Area Overlay District, have been determined by the town to have little or no potential impact on the surrounding area or overall pattern of land development in Richford and do not require a zoning permit; however, all setbacks listed in Table 3.1 shall be met. These exemptions do not apply to development located in the Flood Hazard Overlay District.

- 1) Some types of signs as listed in Section 4.8.
- 2) A home office within a principal dwelling or attached garage which is carried on by a resident of that dwelling, and which involves no signs or outdoor storage or displays (see Section 5.5).
- 3) Land Development associated with the installation of an electric vehicle charging station.

- C) **State 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:

- 1) Accepted agricultural and best management practices (AAPs, BMPs) as adopted in rules by the Agency of Agriculture (see [www.vermontagriculture.com/ARMES/awq/AAPs.htm](http://www.vermontagriculture.com/ARMES/awq/AAPs.htm)), 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 these regulations include, but are not limited to the following:
  - a) The confinement, feeding, fencing, and watering of livestock.
  - b) The handling of livestock wastes and by-products.
  - c) The collection of maple sap and production of maple syrup.
  - d) The preparation, tilling, fertilization, planting, protection, irrigation and harvesting of crops.
  - e) The ditching and subsurface drainage of farm fields and the construction of farm ponds.
  - f) 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.
- 2) Accepted management practices (AMPs) for silviculture (forestry) as defined by the Commissioner of Forests, Parks, and Recreation, pursuant to the Act.
- 3) 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.
- 4) 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.

**D) Zoning Permit Application Requirements.** Application for a zoning permit shall be made by the landowner (or a duly authorized agent) and submitted to the Zoning Administrator. Zoning Permit Application Forms shall be available from the Zoning Administrator during office hours or at the Town Clerk's Office during business hours. The applicant shall provide all information requested on the form, including a plot plan showing land ownership and the location of existing and proposed development, and any other information the Zoning Administrator may require to determine compliance with the Richford Zoning Bylaws.

An application shall not be deemed received until a complete application form, including all applicable materials and fees, has been submitted and stamped by the Zoning Administrator during office hours.

**E) Notification, Review, and Issuance Procedure.** Zoning permit applications are subject to notification and review procedures set forth in Section 6.1.

**F) Certificate of Occupancy.** A certificate of occupancy issued by the Zoning Administrator shall be required prior to occupancy of any new construction, structural alteration, replacement, or relocation of a structure for which a zoning permit has been issued. The



purpose of a Certificate of Occupancy is to certify that development complies with all requirements of the Zoning Permit.

The Zoning Administrator shall provide an application for a certificate of occupancy with all zoning permits issued according to these regulations. The applicant shall submit the application and receive approval prior to the use or occupancy of the structure.

Before issuing a Certificate of Occupancy, the Zoning Administrator shall inspect the premises to ensure that the development is in conformance with the zoning permit and associated approvals, including all permit conditions. A Certificate of Occupancy shall not be withheld for reasons not under the purview of these Regulations, such as finish details, plumbing, or other utilities.

## SECTION 2.2      **CONDITIONAL USE APPROVAL**

- A) Applicability.** A Zoning Permit for any use, expansion of use, structure, or expansion of structure that requires conditional use approval according to Table 3.2 shall not be issued by the Zoning Administrator until the Development Review Board grants such approval. In addition to uses identified in Table 3.2, structures higher than 35 feet (Section 4.5) and changes to nonconforming structures may require conditional use approval (Section 4.4).
- B) Application Requirements.** Applications for conditional use approval shall be made by the landowner (or a duly authorized agent) on a Zoning Permit Application Form and be submitted to the Zoning Administrator according to 2.1(D). The Zoning Administrator shall refer the application to the Development Review Board for review.
- C) Notification, Review, and Issuance Procedure.** Applications for conditional use approval are subject to notification and review procedures set forth in Section 6.1.
- D) Review Standards.** In reviewing an application for conditional use approval, the Development Review Board shall determine that the proposed use shall not adversely affect:
- 1) The capacity of existing or planned community facilities;
  - 2) The character of the area affected, as defined by the purpose of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan;
  - 3) Traffic on roads and highways in the vicinity;
  - 4) Utilization of renewable energy resources;
  - 5) Performance standards as defined in Section 4.7.

## SECTION 2.3      **SITE PLAN APPROVAL**

- A) Applicability.** Land development may require site plan approval from the Development Review Board before a Zoning Permit can be issued by the Zoning Administrator. Uses other than home occupation, accessory uses, and single and two family dwellings on single lots, as listed in Table 3.2, shall require site plan approval. In addition, access by right of way to lots without frontage on a public road in accordance with Section 4.3 requires site plan approval.

**B) Application Requirements.** Applications for site plan approval shall be made by the landowner (or a duly authorized agent) on a Zoning Permit Application Form and be submitted to the Zoning Administrator according to 2.1(D). The Zoning Administrator shall refer the application to the Development Review Board for review. The plot plan submitted with the Zoning Permit Application Form shall include the following additional requirements:

Additional Plot Plan Requirements. Two copies of the plot plan shall be prepared in a professional manner and include the following information:

- 1) Name and address of the owner of record and adjoining land ownership. Name and address of person or firm preparing the map. Site location map, scale of map, north arrow, and date;
- 2) Features of the existing site including contours, vegetation and natural features, structures, access points, easements, and property and zoning boundaries, existing structures and access points to adjacent properties;
- 3) Proposed improvements, including structures, parking areas, access points, sidewalks and other walkways, loading docks, outside storage areas, sewage disposal areas, landscaping, screening and site grading. Building information, including elevations and floor plans may also be required;
- 4) Detailed specifications of the planting and landscaping materials to be used;
- 5) Period of time in which all site improvements will be completed;
- 6) Cost estimate of all site improvements;
- 7) Estimate of daily and peak hour traffic generation; and
- 8) Any other information or data that the Development Review Board may reasonably require.

**C) Notification and Review Procedure.** Applications for site plan approval are subject to notification and review procedures set forth in Section 6.1.

**D) Review Standards.** In reviewing site plans, the Development Review Board may impose appropriate conditions and safeguards with respect to the adequacy of pedestrian and vehicular access and circulation, parking, landscaping, screening, utilization of renewable energy resources and other similar site factors. In the Development Review Board's review, the following objectives shall be taken into consideration:

- 1) **Maximum safety of vehicular and pedestrian circulation between the site and the street network.** Particular attention shall be given to visibility at intersections, to traffic flow and control, to pedestrian safety and convenience, and to access in case of emergency.
  - a) The Development Review Board may require shared access to adjoining properties or may limit access to the property to a side street or secondary road.
  - b) Where traffic access is required to only a portion of the land, the Development Review Board may require sharing that access with future uses of the remainder of the parcel.
- 2) **Adequacy of circulation, parking, and loading facilities.** Particular consideration shall be given to the effect of noise, glare, or odors on adjoining properties and state and town

highways. Adequacy of provisions for erosion control, runoff, refuse removal, service areas, and snow removal shall be considered.

- a) Adequate space for maneuvering in and out of parking and loading areas shall be provided and located so as not to interfere with circulation to and within the site.
- b) Parking areas will be required to be landscaped or screened from adjacent uses.
- c) Parking shall be located in the side/rear of the development in the Mixed Use, Village Residential, and Commercial/Industrial Districts.
- d) Parking will be prohibited from the front, side, and rear yard setback areas.
- e) Relocation or redesign of parking areas may be required to limit runoff and control erosion.
- f) A safe and attractive pedestrian environment shall be provided as appropriate to the use. In the Mixed Use, Village Residential, and Commercial/Industrial Districts pedestrian circulation on sidewalks and paths may be required.
- g) The size and location of any paved area may be limited by the Development Review Board.
- h) All parking areas shall be clearly defined and marked.

**3) Adequacy of landscaping and screening.** Particular consideration shall be given to preservation of existing vegetation and important features of the site, including large trees, views and vistas, fences, stone walls, and shrubs; visibility of unsightly or incompatible areas from the road and adjoining properties; and the adequacy of landscaping materials to meet seasonal conditions, soil conditions and erosion control, and light on the site.

- a) Landscaping shall take the form of shade trees, deciduous shrubs, evergreens, well kept grasses, and ground cover.
- b) Landscaping is required to be installed and maintained in front and side yards and may be required where rear yards abut residential properties or public roads. Adequate setbacks and site grading may be required to insure that the plantings are not adversely affected by traffic and road salt. Street trees may be required along state and town highways particularly in the Mixed Use, Village Residential, and Commercial/Industrial Districts. Landscaping shall be installed within a time frame established by the Development Review Board.
- c) In determining the amount and type of plantings to be required, the Development Review Board shall take into account at least the following:
  - i) Existing trees, shrubs, evergreens and other vegetation to be preserved on the site;
  - ii) The visibility of incompatible or unsightly areas from public roads and/or adjacent properties;
  - iii) The landform and overall landscaping plan for the development;
  - iv) Other factors which, in the Development Review Board's judgment, affect the safety and appearance of the development.
- d) To control erosion, the site plan shall meet the following standards:
  - i) The development plan shall fit the topographic, soil and vegetation characteristics of the site with a minimum of clearing and grading.
  - ii) Existing natural drainage patterns shall be preserved wherever possible.
  - iii) The sequence of construction activities shall be designed so that the smallest area possible is disturbed at any one time. Only areas where active construction is

taking place should be exposed. All other areas should be protected by vegetation and structural control measures.

- iv) Seed and mulch shall be applied as soon as possible to disturbed soils.
- e) Outdoor lighting may be required where deemed necessary by the Development Review Board to illuminate areas such as streets, sidewalks, and parking areas. Outdoor lighting fixtures shall be designed to direct light downward and adjusted so as not to cast light directly on adjacent roadways or properties. The Development Review Board may prohibit fixtures that cause excessive glare within the property or on adjoining properties, and may limit the number, intensity, and location of fixtures to provide for even height treatment and to ensure limited impact on surrounding properties.

## SECTION 2.4 VARIANCE APPROVAL

- A) Applicability.** An applicant may apply to the Development Review Board for a variance from the provisions of these regulations for any structure in accordance with the standards in this Section.
- B) Application Requirements.** Applications for variance approval shall be made by the landowner (or a duly authorized agent) on a Zoning Permit Application Form and be submitted to the Zoning Administrator according to 2.1(D). The Zoning Administrator shall refer the application to the Development Review Board for review.
- C) Notification and Review Procedure.** Applications for variance approval are subject to notification and review procedures set forth in Section 6.1.
- D) Review Standards.** The Development Review Board may grant a variance and render a decision in favor of the applicant only if **all** the five (5) facts listed below are found true, and the findings are specified in its written decision.
  - 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.
  - 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 these zoning regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
  - That the unnecessary hardship has not been created by the applicant;
  - 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
  - That the variance, if authorized, will represent the least deviation possible from zoning regulation and from the plan.

- 1) In making a decision in favor of the applicant for a variance, the Development Review Board may attach conditions which are necessary to implement these Bylaws. In no case shall the Development Review Board grant a variance for a use which is not permitted or conditionally permitted within the zoning district, or which results in an increase in allowable density.
- 2) On a request for a variance for a structure which is primarily a renewable energy resource structure, the Development Review Board may grant the variance only if it finds that all of the facts listed in 24 V.S.A 4469(b) are found in the affirmative.
- 3) On a request for a variance for a structure located in the Flood Hazard Overlay District, the Development Review Board shall also find that the request complies with Section 2.6(G).

## SECTION 2.5 WAIVER APPROVAL

- A) Applicability.** An applicant may apply to the Development Review Board for a waiver from meeting setback and/or frontage provisions of these Bylaws by up to fifty percent (50%) of the standard required. All lots that meet the minimum lot size are eligible for a 50% frontage waiver. All structures, including structures made nonconforming by a setback encroachment, are eligible for a 50% setback waiver. The waiver shall be measured as linear distance of the setback or frontage.
- B) Application Requirements.** Applications for waiver approval shall be made by the landowner (or a duly authorized agent) on a Zoning Permit Application Form and be submitted to the Zoning Administrator according to 2.1(D). The Zoning Administrator shall refer the application to the Development Review Board for review and public hearing.
- C) Notification and Review Procedure.** Applications for waiver approval are subject to notification and review procedures set forth in Section 6.1.
- D) Review Standards.** The Development Review Board may grant a waiver when the applicant has demonstrated that conditions exist preventing the ability to otherwise meet the dimensional requirements of these Bylaws and in accordance with the following standards.
- 1) The Development Review Board shall only approve a waiver that will represent the least deviation possible from the Richford Zoning Bylaws.
  - 2) The Development Review Board shall not approve a waiver that would have an undue adverse affect on adjacent property, the character of the area, or on public health and safety.
  - 3) The Development Review Board may require design features, screening, or some other remedy in order to mitigate anticipated impacts of any such waiver. The design feature should have a minimum height of five (5) feet above grade level and shall provide adequate privacy to the surrounding use(s). Options include a wall, a solid fence, a densely planted hedge, or natural and/or man-made landforms.

- 4) The Development Review Board may require that all outdoor storage of materials and equipment, including waste storage facilities, not be stored or located within any reduced setback area.

## **SECTION 2.6 FLOOD HAZARD AREA DEVELOPMENT APPROVAL**

**A) Applicability.** This section shall apply to development in the Flood Hazard Overlay District. This District includes the Special Flood Hazard Area on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Chapter 32 § 753, which are hereby adopted by reference and declared to be part of these regulations.

The provisions of these flood hazard bylaws 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.

### **1) Base Flood Elevations & Floodway Limits.**

- a) Where available,, the base flood elevations and floodway limits (or data from which a community can designate regulatory floodway limits) provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer the provisions of these regulations. District boundaries shall be determined by the Zoning Administrator. Appeals with respect to the District boundaries can be made to the Development Review Board in accordance with Section 6.2.
- b) In the Special Flood Hazard Area 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.

**2) Warning of Disclaimer of Liability.** This Section does not imply that land outside of the Flood Hazard Overlay District will be free from flood damages. This regulation shall not create liability on the part of the Town Richford, or any municipal official or employee thereof, for any flood damages that result from reliance on this regulation, or any administrative decision lawfully made hereunder.

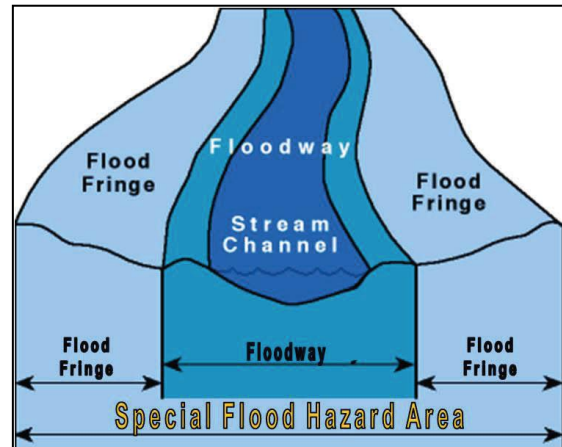
**B) Permits for Development in the Flood Hazard Overlay District.** A permit is required from the Zoning Administrator for all development allowed in the Flood Hazard Overlay District. For the purposes of this Section, development is defined as any man-made change to improved or unimproved real estate, 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.

**1) Within the Floodway:**

- a) Permit issued from Zoning Administrator:
  - correctly sized bridges and culverts, which by their nature must be placed in or over the stream, and have been authorized by the Agency of Natural Resources;
  - public utilities and stabilization projects for which no reasonable alternative location exists;
- b) Permit issued after Flood Hazard Area Development Review by the Development Review Board:
  - Non-substantial improvements to existing structures
  - Improvements to existing roads or drainage

**Special Flood Hazard Area and Floodway**

Courtesy of VT Department of Environmental Conservation, River Management Section

**2) Within the Special Flood Hazard Area, outside of the Floodway:**

- a) Permit required from Zoning Administrator:
  - Floodwalls;
  - Road construction or improvement;
  - Bridges, culverts, public utilities, stabilization projects or other public projects which are functionally dependent on stream access or stream crossing
  - Non-substantial improvements to existing structures
- b) Permit issued after Flood Hazard Area Development Review by the Development Review Board:
  - Public and Semi-Public Facilities
  - Accessory Structures
  - Recreation
  - Substantial improvements to existing structures
  - Excavation and fill

**3) Prohibited Development throughout Special Flood Hazard Area:**

- a) The following are prohibited throughout the Special Flood Hazard Area, including the floodway:
  - Storage of any explosive, flammable, hazardous, toxic, or floatable materials, or junk yards,
  - New residential structures (including the placement of manufactured homes);
  - New commercial structures;
  - Critical facilities;
  - All development not exempted, permitted, conditionally permitted, or allowed as a nonconforming use; and,

- New fill except where necessary to elevate structures to meet the Development Standards.

**C) Application Requirements.** Applications for Flood Hazard Area Development approval shall be made by the landowner (or a duly authorized agent) on a Zoning Permit Application Form and be submitted to the Zoning Administrator according to 2.1(D). In addition, the following application requirements are required for development in the Flood Hazard Overlay District

- 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 a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

**D) Notification and Review Procedure.** Applications for flood hazard area approval are subject to the notification and review procedures set forth in Section 6.1.

- 1) In accordance with Section 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:
  - a) a copy of the application is mailed or delivered by the Zoning Administrator or by the Development Review Board, to the Agency of Natural Resources; and
  - b) either 30 days elapse following the mailing or the Agency of Natural Resources delivers comments on the application.

**E) Review Standards.** The Development Review Board may impose specific conditions or require project modifications for development within the Flood Hazard Overlay District in accordance with the standards listed below.

**1) All Development:**

- a) 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) All development in the Special Flood Hazard areas shall be reasonably safe from flooding and be:



- designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood;
- constructed with materials resistant to flood damage;
- constructed by methods and practices that minimize flood damage; and
- 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.

**2) Residential Development:**

- a) 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. New construction and existing buildings to be substantially improved that are located in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in the feet on the community's FIRM or at least two feet if no depth number is specified.
- b) Manufactured homes to be placed and existing manufactured homes to be substantially improved that are 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 above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement during the occurrence of the base flood.
- c) Residential construction located within Zones AH and AO shall have adequate drainage paths around structures on slopes, to guide floodwater around and away from the proposed structures.

**3) Non-residential Development:**

- a) 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. New construction located in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in the feet on the community's FIRM or no less than two feet if no depth number is specified.
- b) 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. Existing buildings to be substantially improved located in AO zones shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM or no less than two feet if no depth number is specified 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.

- c) 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) Non-residential construction located within Zones AH and AO shall have adequate drainage paths around structures on slopes, to guide floodwater around and away from the proposed structures.

**4) Subdivisions:**

- a) New subdivision proposals (including proposals for manufactured home parks and subdivisions) that are greater than 50 lots or 5 acres, whichever is the lesser, shall be designed to assure:
  - such proposals minimize flood damage within the flood-prone area,
  - public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
  - adequate drainage is provided to reduce exposure to flood hazards.

**5) Enclosed Areas Below the Lowest Floor:**

- a) Enclosed areas below the lowest floor which are subject to flooding shall be used solely for parking of vehicles, building access, or storage.
- b) 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.
- c) 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 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. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

**6) Recreational Vehicles:** Recreational Vehicles placed on sites with special flood hazard areas shall either:

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

**7) 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:

- a) The structure must only be used for parking or storage,
- b) The structure must have the required openings to allow floodwaters in and out,
- c) The structure must be constructed using flood resistant materials below the Base Flood Elevation,
- d) The structure must be adequately anchored to resist flotation, collapse, and lateral

- movement, and
- e) All building utility equipment including electrical and heating must be elevated or floodproofed.
  - 8) **Water Supply Systems:** New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
  - 9) **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.
  - 10) **On-Site Waste Disposal Systems:** On-site wastewater disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
  - 11) **Watercourse Carrying Capacity:** The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
- F) Standards for Review of Nonconforming Structures.** In addition to the review procedure and standards for nonconforming structures in Section 4.4, review of nonconforming structures in the Flood Hazard Area shall meet the requirements of this section. After public hearing, the Development Review Board 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:
- 1) The Development Review Board finds that the repair, relocation, or enlargement of the nonconforming structure is required for the continued economically feasible operation of a nonresidential enterprise.
  - 2) The Development Review Board 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.
  - 3) 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 bylaws pertaining to that area, and will be maintained at the risk of the owner.
- G) Variances to the Development Standards.** In addition to the review procedure and standards for variances in Section 2.4, variances for development in the Flood Hazard Area shall be granted by the Development Review Board only in accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations listed below.
- 1) Any variance issued in the Special Flood Hazard Area will not increase flood heights and 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.
  - 2) A copy of such a variance shall be affixed to the deed of the property on file in the municipal clerk's office.

## SECTION 2.7 MAJOR SUBDIVISION APPROVAL.

- A) Applicability.** To assure the division of land into safe, usable lots that further the goals and policies of the Richford Town Plan, major subdivisions shall require approval from the Development Review Board before a zoning permit may be issued by the Zoning Administrator. A major subdivision is the division of one parcel of land into 4 or more lots within a 5 year period. For example, if a landowner subdivides one lot into 3 lots and then 2 years later subdivides one of the 3 lots into 2 lots, this would trigger major subdivision review.
- B) Application Requirements.** Applications for Subdivision approval shall be made by the landowner (or a duly authorized agent) on a Zoning Permit Application Form and be submitted to the Zoning Administrator according to 2.1(D). The Zoning Administrator shall refer the application to the Development Review Board for review.
- C) Notification and Review Procedure.** Applications for major subdivision approval are subject to the notification and review procedures set forth in Section 6.1.
- D) Review Standards.** The Development Review Board shall review major subdivisions for conformance with the site plan review standards in Section 2.3 and the following specific standards:
- 1) Layout of lots shall be in conformance with the district requirements in Article 3, and be designed:
    - a) To access onto side streets and minimize access to town highways;
    - b) To utilize common driveways for adjacent lots;
    - c) To produce the safest, most healthful and attractive building sites for the topography, drainage, soils, vegetation, and other natural features of the property; and,
    - d) To make optimum use of solar orientation and vegetation control of building energy conservation.
  - 2) Regular shape lots are encouraged under these regulations. Regular shape lots are defined as lots with side lot lines generally perpendicular (90 degrees) to front lot lines for the depth of the lot and rear lot lines generally parallel to front lot lines. Bowling alley lots, and lots that are otherwise contorted in order to get around these zoning regulations are not regular shaped lots. Lot lines may be designed to follow existing land characteristics such as land contours, fence lines, roads, and paths, as well as to protect significant natural resources or to avoid excessively steep slopes, water courses, or wetlands.
  - 3) Design of streets shall conform to the Selectboard's specifications and shall be constructed logically in relation to the topography so as to produce safe intersections, grades and alignments and adequate drainage. Wherever feasible, streets shall be laid out:
    - a) To coordinate with existing and future development of adjacent tracts;
    - b) To make driving through the development possible (i.e. avoid long dead-end streets), but to discourage the streets to be used for through traffic.

- 4) All major subdivisions in Richford shall contain provisions for pedestrian traffic, which are adequate in terms of safety convenience, access to points of destination, attractiveness, and connections with pedestrian ways on adjoining properties.
  - a) Sidewalks shall be required along internal streets of subdivisions within the Village and within ¼ mile of the Village area, and shall be required to connect to existing sidewalks along major arteries bordering the subdivision and on adjoining properties. Sidewalks may be required by the Development Review Board for subdivisions outside the Village area.
  - b) The Development Review Board may require pedestrian rights-of-way in the form of perpetual unobstructed easements at least twenty (20) feet in width to facilitate pedestrian and bicycle circulation within the subdivision and to ensure access to adjoining properties, uses, or public facilities.
- 5) The Development Review Board may require that the proposed development be serviced by common or public water supply and sewage disposal systems, or that systems be designed so that they may eventually be connected to municipal facilities.
- 6) For developments which are going to be constructed in phases, full build out plans are required specifying the amount and scheduling of development including but not limited to clearing of vegetation, grading, infrastructure improvements, and landscaping.
- 7) The disclosure of future subdivision and development plans is encouraged under these regulations so that the Development Review Board may work with the applicant to approve the most efficient and safe use of the entire site that will have the least impact on natural resources as possible.

## SECTION 2.8 PLANNED UNIT DEVELOPMENT APPROVAL

- A) Purpose and Applicability.** Planned unit developments (PUDs) are permitted to encourage clustering and other innovation in design, more efficient uses of land to facilitate the adequate and economic provision of streets and utilities, and to preserve the natural and scenic qualities of the Town. Before a zoning permit may be issued by the Zoning Administrator, planned unit developments shall require approval from the Development Review Board. To achieve the goals for planned unit developments as stated above, the Development Review Board may modify the dimensional requirements of these regulations as listed in Table 3.1 simultaneously with planned unit development approval. Such modifications shall be subject to the general and specific conditions and standards in this section and all other applicable provisions of this bylaw.
- B) Qualification.** To qualify, a PUD project shall:
- 1) Contain at least 3 contiguous acres; and
  - 2) Conform to the definitions herein and to the requirements of Section 4417 of the Act.
- C) Application Requirements.** Applications for Planned Unit Development approval shall be made by the landowner (or a duly authorized agent) on a Zoning Permit Application Form and be submitted to the Zoning Administrator according to 2.1(D). The Zoning Administrator shall refer the application to the Development Review Board for review. Supplemental application requirements for planned unit developments include:
- 1) Articles of association, bylaws, or declarations of condominium for those developments

that will provide common open space, recreation, roads, parking areas, community water & sewer systems, storm water management systems, or other facilities used, owned, or maintained in common.

- 2) A statement explaining how the proposal meets the purpose of a planned unit development.
- 3) A statement setting forth the nature of all proposed modifications to this bylaw.

**D) Review Procedures.** Applications for planned unit development approval are subject to the notification and review procedures set forth in Section 6.1.

**E) Review Standards.** The Development Review Board may approve planned unit developments in accordance with the following provisions:

- 1) The project shall be consistent with the Town Plan, and the predominant uses of the site shall not differ substantially from the uses allowed in the district in which the project is located.
- 2) Density may vary within the development, however, overall density of dwelling units shall not exceed 20% more than the prescribed district density.
- 3) Mixed uses shall be so arranged as to be compatible, and to insure visual and aural privacy for the residents to the development and for adjacent properties. The minimum setback requirements for the district in which the project is located shall apply to the periphery of the development.
- 4) The Development Review Board may require that a reasonable percentage of the land be utilized for open space, recreation areas, or necessary municipal purposes. The amount of land so designated shall be determined by the Development Review Board on the merits, purpose, and condition of the individual proposal. Further, the Development Review Board may establish conditions on the ownership, use, and maintenance of said lands as it deems necessary to assure preservation of said lands for their intended purposes.
- 5) Layout of lots and streets shall meet or exceed the Town Road standards.
- 6) The project shall be an efficient and unified treatment of the development possibilities of the site, and appropriate provisions shall be made for the following:
  - a) roads, culverts and ditching in accordance with the Town of Richford Road Standards;
  - b) water supply, sewage and solid waste disposal, drainage, traffic flow and parking, and the layout of the facilities so that public services can be economically and effectively provided; and
  - c) preservation of streams and stream banks, steep slopes, wet areas, soils unsuitable for development, forested areas, and unique natural and cultural features.
- 7) The development may be phased over a reasonable period of time in order that adequate municipal facilities and services may be provided.

## **ARTICLE 3. ZONING DISTRICTS AND DISTRICT STANDARDS**

### **SECTION 3.1 ESTABLISHMENT OF ZONING DISTRICTS.**

- A) For the purposes of these bylaws, the Town of Richford is divided into the following zoning districts as shown on the Official Zoning Map, which shall be identified by the signature of the Chair of the Planning Commission and the Selectboard, attested by the Town Clerk, and shall be located in the Town Clerk's office:

**Mixed Use District  
Commercial/Industrial District  
Village Residential District  
Rural Residential District  
Agricultural District  
Recreation/Conservation District  
Forest/Conservation District  
Education District  
Water Supply Protection District  
Flood Hazard Overlay District**

- B) **Overlay Districts.** The Town is divided into zoning districts, which establish the use, density, and other requirements for land development. There are nine (9) traditional zoning districts and one (1) overlay district within the Town of Richford. The overlay zone is the Flood Hazard Overlay District, which adds requirements concerning flood hazard areas.

### **SECTION 3.2 DETERMINATION OF DISTRICT BOUNDARIES.**

- A) District boundaries on the Official Zoning Map shall be deemed to follow the "edge of rights-of-ways" of roads and transportation rights-of-way, property lines, and watercourses. The abandonment of roads shall not affect the location of district boundaries. The Zoning Administrator shall determine the location of a district boundary by rights-of-ways, property lines, water courses, and/or other land features, by scale or dimensions stated on the zoning maps. Any interpretation of zoning district boundaries by the Zoning Administrator may be appealed to the Development Review Board for a declaratory ruling.

### **SECTION 3.3 AMENDMENTS TO THE ZONING MAP**

- A) 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 Sections 4441 and 4442 of the Act.







## SECTION 3.4 ZONING DISTRICT PURPOSES

- A) **Mixed Use District.** The Mixed Use District provides for increased densities of development suitable for the traditional village environment. Development in the district shall promote the continuation of higher density commercial uses while providing a pedestrian orientated environment. The Mixed Use District adds standards for permitted and conditional uses, densities of development, landscaping, fences/ hedges, parking, and performance standards.
- B) **Village Residential District.** The Village Residential District provides for increased densities of development suitable for the traditional village environment. Development in the district shall promote the continuation of higher density residential uses while providing a pedestrian orientated environment. The Village Residential District adds standards for permitted and conditional uses, densities of development, landscaping, fences/ hedges, parking, and performance standards.
- C) **Commercial/Industrial District.** The purpose of this district is to provide suitable sites for the development of commerce and industry. Careful review of commercial and industrial development will be used to maintain compatibility with existing uses. The Commercial/Industrial District adds standards for permitted and conditional uses, densities of development, landscaping, fences/ hedges, parking, and performance standards. Development in the Richford Business Park is subject to the Declaration of Restrictions (Book 59, pages 278-282), the Amendment to the Declaration of Restrictions (Book 59, pages 451-453 and Book 71, page 9) and Land Use Permit #6F0380 (Book 59, pages 470-473) and Amendments.
- D) **Rural Residential District.** This district is intended to accommodate rural residential and compatible uses at a density these areas can support without imposing a substantial burden upon the Town to extend public services and facilities. For residential uses, cluster housing is encouraged.
- E) **Agricultural District.** To protect those areas which have generally severe building limitations, due to soil, wetlands, and high elevation, from inappropriate development and to protect those areas which are used for Agriculture but to allow for uses other than agriculture and forestry as a conditional use.
- F) **Recreation/Conservation District.** This District is established to provide areas that offer unique environmental and public use opportunities within the village district. It also seeks to conserve environmentally fragile areas and minimize any hardship that may arise as a result of nature's acts. Residential development is not appropriate for this district.
- G) **Forest/Conservation District.** This land has limited suitability for future community growth and development because of severe development limitations, including remote locations, extreme topography, and shallow soils. Regulation in this district is intended to protect the scenic and natural resource values of this land for forestry, wildlife habitat, wetlands, and outdoor recreation. Only limited low-density development is encouraged in this district.

- H) Education District.** The purpose of this district is to reserve areas for current and future educational facilities and their accessory uses within the central village areas. Uses in this district must be compatible with the primary function of the area and the presence of school children.
- I) Water Supply Protection District.** To protect the Stanhope Brook Watershed which supplies Richford's municipal water system as well as other water recharge areas including wetlands.
- J) Flood Hazard Overlay District.** The purpose of this district is to minimize future public and private losses due to floods by regulating future land development in hazard areas. Designation of this district is also required for continued town eligibility in the National Flood Insurance Program. Included are all areas in the 100-year flood plain as shown in the Flood Insurance Study and Maps prepared by the Federal Flood Insurance Administration, which are adopted by reference and incorporated herein (on file at the Town Clerks office).

### **SECTION 3.5 ZONING DISTRICT ALLOWED USES AND DIMENSIONAL STANDARDS**

- A)** Table 3.1 lists dimensional standards that apply to each zoning district, including minimum lot size, road frontage, and property line and road setback distances.
- B)** Table 3.2 lists uses and structures for each district, which may be permitted (P), permitted with site plan approval (P/S), conditionally permitted (C), conditionally permitted with site plan approval (C/S), or not allowed (X). Procedures for review include the following:
- 1) Permitted uses may be approved by the Zoning Administrator according to Section 2.1. However, permitted uses may also require site plan approval from the Development Review Board prior to issuance of a zoning permit, as provided in section 2.3.
  - 2) Conditional uses require conditional use approval by the Development Review Board, as provided under Section 2.2. Conditional uses may also require site plan approval, as provided in Section 2.3. Conditional use review and site plan review may be completed concurrently, as provided in Section 6.1 (J).
  - 3) Uses labeled with an X are not allowed in the zoning district.
- C)** Only a single principal use or structure may be located on a single lot, unless otherwise approved by the Development Review Board as part of a PUD under Section 2.8 or as part of a mixed use under Section 5.10.

**Table 3.1 Zoning District Minimum Dimensional Standards**

	MU	VR	CI	RR	AGR	RC	FC	WSP	ED
<b>Minimum Lot Size</b>	10,000 sq ft	10,000 sq ft	½ acre	1 acre ½ acre with municipal water and sewer service	2 acres	1 acre	10 acres	30 acres	1 acre
<b>Maximum Density</b>	NA	10,000 sq ft per dwelling unit	NA	NA	NA	NA	NA	NA	NA
<b>Minimum Lot Width</b>	60 feet	60 feet	NA	NA	NA	NA	NA	NA	NA
<b>Minimum Frontage</b>	NA	NA	100 feet	100 feet	200 feet	100 feet	250 feet	300 feet	100 feet
<b>Minimum Setback Road</b>	①	20 feet	25 feet	25 feet	25 feet	25 feet	35 feet	35 feet	20 feet
<b>Minimum Setback Side Yard</b>	0 feet	10 feet	25 feet	25 feet	25 feet	25 feet	35 feet	35 feet	10 feet
<b>Minimum Setback Rear Yard</b>	10 feet	10 feet	25 feet	25 feet	25 feet	25 feet	35 feet	35 feet	10 feet

- ① The road setback for structures in this district shall be the average of the road setbacks of the principal buildings located on either side of the proposed structure, but in no event is a greater setback than 25 feet required.

### **Abbreviations to the Zoning Districts:**

Mixed Use District - MU  
 Village Residential District - VR  
 Commercial/Industrial District – CI  
 Rural Residential District - RR  
 Agricultural District - AGR  
 Recreation/Conservation District – RC  
 Forest/Conservation District – FC  
 Water Supply Protection District - WSP  
 Education - ED

**Table 3.2 Allowed Uses by Zoning Districts**

“P” – Uses Requiring an Administrative Permit from the Zoning Administrator  
 “C” – Uses Requiring Conditional Use Approval from the Development Review Board  
 “S” – Uses Requiring Site Plan Approval from the Development Review Board  
 “X” – Specific Uses Not Allowed

	Mixed Use	Village Residential	Commercial/Industrial	Rural Residential	Agricultural	Recreation/Conservation	Forest/Conser vation	Water Supply Protection	Education
Single Family Residential	P	P	X	P	P	X	C	X	X
Two-Family Residential	C/S [1]	P	X	P	P	X	C	X	X
Multi-Family Residential	C/S	P/S	X	C/S	C/S	X	X	X	X
Seasonal Residential	X	X	X	P	P	X	P	C	X
Mobile Home Park	X	X	X	C/S	C/S	X	X	X	X
Home Occupation	P	P	P	P	P	X	P	X	X
Small Business	P/S	C/S	P/S	P/S	C/S	X	X	X	X
Commercial 1	P/S	X	P/S	C/S	C/S	X	X	X	X
Commercial 2	C/S	X	P/S	X	C/S	X	X	X	X
Manufacturing 1	X	X	P/S	C/S	C/S	X	X	X	X
Manufacturing 2	X	X	C/S	X	C/S	X	X	X	X
Mixed Use	C	C	C	X	X	X	X	X	X
Natural Resource Extraction	X	X	C/S	X	C/S	X	X	C/S	X
Licensed Junkyard	X	X	C/S	X	C/S	X	X	X	X
Campground	X	X	X	C/S	C/S	X	C/S	X	X
Public, Semi-Public Facility	C/S	C/S	C/S	C/S	C/S	C/S	X	X	P/S
Place of Worship	P/S	P/S	P/S	P/S	P/S	P/S	X	X	X
Accessory Use/Structure	P	P	P	P	P	P	P	P	P
Wireless Telecom Facility	C	C	C	C	C	C	C	C	C

[1] Two-family residential dwellings are exempt from site plan approval under V.S.A. Title 24, Chapter 117, § 4416

## **SECTION 3.6 VILLAGE MIXED USE DISTRICT STANDARDS**

**A) Applicability.** The following standards shall apply to all land development in the Village Mixed Use District.

**B) Conversions of Historic Commercial Storefronts.** The following section shall apply to all historic commercial storefronts in the Village Mixed Use District.

- 1) **Purpose.** The purpose of this standard is to ensure the continued use of historic commercial storefronts in the Village Mixed Use District for commercial and public uses in order to support the traditional development patterns, and to prohibit the conversion of historical commercial storefronts to residential uses.
- 2) **Standard.** Structures with an historic commercial storefront, as defined in these regulations, shall not have any residential uses on the first story.

## **ARTICLE 4. GENERAL REGULATIONS AND REVIEW STANDARDS**

### **SECTION 4.1 REPAIRING/REPLACING DEMOLISHED AND DESTROYED STRUCTURES**

A) **Demolition** of structures is the intentional removal or dismantling of a structure either for the purpose of replacement or returning to grade. A zoning permit is not required prior to demolition. **Destroyed** structures are those structures that have been completely or partially lost unintentionally through accident or act of nature (fires, floods, etc).

- 1) Within one year after any structure has been demolished or destroyed, 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.
- 2) A zoning permit is required for replacement, reconstruction, or repair of a demolished or destroyed conforming structure, unless it is completed (and used for the same use) within 1 year from demolition or destruction, **and** all dimensional standards are met, **and** it is located in substantially the same footprint as the demolished structure, **and** new floor space does not exceed three hundred (300) square feet in the town area or one hundred (100) square feet in the village area.
- 3) Replacement, reconstruction, or repair of demolished or destroyed nonconforming structures are subject to Section 4.4(B)(2).

### **SECTION 4.2 ABANDONMENT**

A) **Abandoned Structures.** Any structure shall be deemed abandoned when it has not been used for at least one year. Abandoned structures must be either maintained or demolished. There is no time limit on how long a structure may remain abandoned provided it is maintained in the judgment of the Zoning Administrator. A maintained structure is habitable with intact exterior walls, intact windows, and an intact roof.

B) **Abandoned Uses.** Any non-residential use of a lot or structure shall not be re-established if such use has been discontinued for a period of at least one-year. The Zoning Administrator shall issue a notice of discontinuance upon learning of any discontinued non-residential use, which shall be sent certified mail, return receipt requested to the property owner and shall state the date discontinuance was first observed and the date the property use will be deemed abandoned should the use not be reinstated. Once the use of a lot or structure has been deemed abandoned, the Zoning Administrator shall issue a notice of abandonment to the property owner, sent certified mail, return receipt requested. A zoning permit must be acquired to resume the original use or start new use of an abandoned property. Intent to resume a use shall not confer the right to do so.

### **SECTION 4.3      ACCESS TO LAND DEVELOPMENT WITHOUT FRONTAGE**

- A) Land development may be permitted on lots that do not have any frontage either on a public road or waters, provided that access through a permanent easement or right of way has been approved by the Development Review Board under Site Plan Approval in Section 2.3 and the following standards. Access easements or right of way shall not be less than 25 feet in width. If serving more than two lots or uses, the Development Review Board may require a right of way up to 50 feet in width to ensure public safety and orderly development. Access on a state highway must be permitted by VAOT.

### **SECTION 4.4      NONCONFORMITIES**

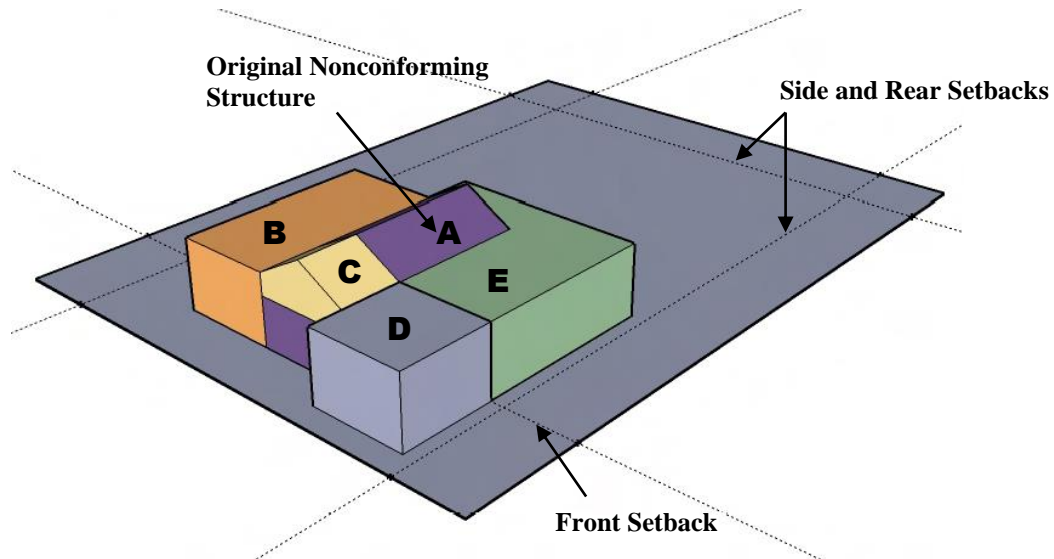
- A) **Applicability.** This section shall apply to all structures, uses, and lots in lawful existence prior to the effective date of the Richford Zoning Bylaws or subsequent amendments, which do not conform to the requirements of these Bylaws, including the dimension and use requirements in Table 3.1 and 3.2. No provision of this bylaw shall prevent the normal continuation or maintenance of any nonconformity. Any alteration or expansion of a nonconforming use or nonconforming structure for the sole purpose of compliance with environmental, safety, health or energy codes, laws or regulations shall be approved.
- B) **Review Procedure for Nonconforming Structures.**
- 1) Nonconforming structures may be altered, expanded, or replaced in a manner that brings them in conformance with the Richford Zoning Bylaws or in a manner that does not increase the degree of nonconformance subject to the same review and approval procedures for conforming structures, except as provided in (2) below.

**Figure 4.1 Increasing the Degree of Nonconformance**

*The purple structure “A” is the original nonconforming structure.*

*Additions B, C, and D increase the degree of nonconformance.*

*Addition E is the only addition that **does not** increase the degree of nonconformance.*



- 2) Structures made nonconforming by a setback encroachment may become conforming structures if granted a waiver under Section 2.5. Examples of when nonconforming structures are eligible for a waiver include:
  - A structure that is located within the setback by not more than 50% (no alteration or expansion proposed). If granted a waiver, this structure would become conforming.
  - A structure that is located within the setback by not more than 50%, which proposes to add an addition that extends further into the setback, but not by more than 50% of the setback. If granted a waiver, this structure would become conforming.
  - A structure that is located within the setback by not more than 50%, which proposes an addition that adds square footage within the setback but does not extend further into the setback (see addition B and C in Figure 4.1). If granted a waiver, this structure would become conforming.
- 3) Repair, relocation, replacement, or enlargement of a nonconforming structure within a regulated flood or other hazard area shall also conform to Section 2.6(F).

**C) Review Procedure for Nonconforming Uses**

- 1) A non-conforming use shall not be changed to another non-conforming use, expanded, moved, or enlarged. Examples of enlarged or expanded uses can include increased hours of operation, increased numbers of tables, or an increase in the size of the operation through the expansion of a conforming structure.
- 2) A nonconforming use shall not be re-established after being abandoned or discontinued for a period of one (1) year, or after being changed to a conforming use, regardless of evidence of intent to re-establish such use.



**D) Pre-Existing Small Lots.** A nonconforming, or pre-existing small lot may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth acre in area with a minimum width or depth dimension of forty feet.

- 1) If such a nonconforming lot comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot for purposes of this chapter, unless the following conditions apply:
  - a) the lots are conveyed in their preexisting, nonconforming configuration; and
  - b) on the effective date of any zoning regulations, each lot had been developed with a water supply and wastewater disposal system; and
  - c) at the time of transfer, each water supply and wastewater system is functioning in an acceptable manner; and
  - d) the deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems in case a wastewater systems potable water systems, or both, in case there is a failed system or failed supply as defined in 10 V.S.A. Section 1972.

## **SECTION 4.5      HEIGHT**

- A) No structure (agricultural structures exempt) shall exceed 35 feet in height above the average ground level unless approved by the Development Review Board under Conditional Use approval. The Board may permit structures in excess of 35 feet provided the structure does not constitute a hazard and provided that the portion above 35 feet shall remain unoccupied except for normal maintenance.

## **SECTION 4.6      PARKING**

- A) Adequate provision shall be made so that normal vehicular traffic to any use may be parked off the public roads and highways. The off-street parking specifications in Table 4.1 shall be required for any new or expanded use. 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 (approximately 9 feet wide and 19 feet in length). Required off-street parking areas for three or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley and so that any automobile may be parked and unparked without moving another.

- 1) **Specific Standards for the Mixed Use District.** In recognition of the Mixed Use District's downtown nature where on street and multi-use parking are provided, off-street parking spaces may be provided on-site or off-site within approximately 600 feet from the use. The Development Review Board encourages applicants to make use of shared parking spaces for uses with peak parking demands at different times, such as uses operating primarily on the weekends, weekday daytime, or nighttime. For off-site and shared parking, a written legal agreement between the owners of each use for which shared parking will apply, or in the case of off-site parking, between the owner of the off-

site parking land and each use for which off-site parking will apply, is required. The legal agreement shall guarantee access to, use of, and management of designated shared or off-site parking spaces.

When not feasible due to small lot sizes and high density development, the Development Review Board may reduce off street parking space requirements required in Table 4.1 by up to 50% for Small Business and Commercial 1 Uses that do not require overnight or long-term parking (such as lodging establishments). Before any reductions are approved, all opportunities for shared and off-site parking are used and parking space requirements are still not met.

<b>Table 4.1 Off-Street Parking Space Specifications</b>	
<b><i>Use</i></b>	<b><i>Off-Street Parking Spaces Required</i></b>
<b><i>Residential Uses</i></b> .....	2 per dwelling unit
<b><i>Small Business, Commercial 1 and 2 Uses</i></b>	
- Retail and Professional Service or Office .....	1 for each 300 sq. ft of gross leasable area
- Restaurant/Bar .....	1 for every 4 seats
- Lodging Facilities .....	1 for each dwelling unit
- Theater .....	1 per 6 seats
- Health Care, Social Service .....	1 per 3 beds (if providing overnight service) or 1 per 2 examination/care rooms (if not) and 1 for each employee based on the expected average employee occupancy
<b><i>Manufacturing 1 and 2</i></b> .....	1 for each 1.2 employees, based on the highest expected average employee occupancy
<b><i>Community Facility with Assembly Room (Church, School, Town Hall)</i></b> .....	
	1 per 3 seats in principal assembly room
<b><i>Other Use</i></b> .....	As determined by Development Review Board

## SECTION 4.7 PERFORMANCE STANDARDS

- A) No land or structure in any zoning district shall be used or occupied in any manner that creates dangerous, injurious, noxious or otherwise objectionable conditions which adversely affect the reasonable use of adjoining or nearby property(ies). In accordance with Section 4414(5) of the Act, the following performance standards, as measured at the property line, must be met and maintained in all districts for all uses, except for agriculture and forestry. In determining on-going compliance, the burden of proof shall fall on the applicant, property owner, and/or all successors and assignors. The Zoning Administrator or Development Review Board may consult with state and federal regulatory agencies in determining accepted performance standards for a particular use.

**B)** No use, under normal circumstances, shall cause, or result in:

- 1) Noise in excess of 70 decibels at the property line that is not the result of occasional, customary activities associated with an allowed use (e.g., lawn mowing or garden cultivating)..
- 2) Smoke, dust, noxious gases, or other forms of air pollution which constitutes a nuisance or threat to neighboring landowner(s), business(es) or resident(s); which endanger or adversely affect public health, safety or welfare; or which cause damage to property or vegetation.
- 3) Glare, lumen, light, or reflection that impairs the vision of motor vehicle operators, which constitutes a nuisance to another property owner(s) or tenant(s), or which is otherwise detrimental to public health, safety, and welfare.
- 4) Liquid or solid waste or refuse which cannot be disposed of by available methods without undue burden to municipal or public disposal facilities, which pollutes surface or ground waters, or which is otherwise detrimental to public health, safety and welfare.
- 5) Undue fire, explosive, radioactive emissions, or other hazard which endangers the public, public facilities, or neighboring property(ies), or which results in a significant increased burden on municipal facilities and services.

## **SECTION 4.8      SIGNS**

**A) Applicability.** A zoning permit shall be required prior to the new placement, replacement, change in size, or relocation of a sign except the following, which shall be exempt from this bylaw:

- 1) Public highway signs;
- 2) Legal notices, identification, informational, or directional signs erected or required by governmental bodies.
- 3) Non advertising signs placed for directional or safety purposes (e.g.: "rest rooms," "telephone," "office," "exit", "falling ice", "fire extinguisher", "no trespassing", etc);
- 4) Temporary auction, lawn sale, campaign, or real estate for sale signs, not to exceed two in number and not to exceed 15 square feet in combined area. All such temporary signs shall be promptly removed when they have fulfilled their functions.
- 5) Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations;
- 6) Flags and insignia of any government except when displayed in connection with commercial promotion;
- 7) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
- 8) Signs or flags indicating that a business is open and/or the hours of operation, provided such signs or flags are:
  - a) limited to one per use (one for hours of operation and one open/closed sign, or one for both);
  - b) are located on the premises of the use for which the sign is advertising;
  - c) do not exceed 10 square feet for a flag and 2 square feet for a sign.

**B) Prohibited Signs.** The following shall be prohibited in all districts:

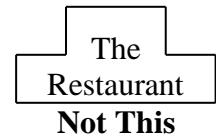
- 1) Signs which impair highway safety;
- 2) Signs which are animated, flashing or intermittently illuminated or uncharacteristic to the area;
- 3) Roof signs and wall signs that extend above the roof line;
- 4) Signs which project over public right of way or property lines.

**C) Review Standards.** Signs may be permitted as provided below:

Type of Premises	Max. Number	Max Sign Area		Max. Height of Free Standing Signs
		Any Sign	All Signs	
Home Occupation	One	8 sq. ft	8 sq. ft	6 ft
Small Business, Commercial 1 and 2, and Manufacturing 1 and 2	Two	25 sq. ft	25 sq. ft	20 ft
Church, School or Other Community Facility	One	20 sq. ft	20 sq. ft	15 ft

**D) Calculation of Sign Area.** When computing the total permissible sign area for any use:

- 1) Existing signs shall be included.
- 2) The total area of all signs shall not exceed the requirements as set forth in these regulations.
- 3) Where a sign consists of individual letters or symbols attached to a building, wall, or window, the area shall be considered to be the smallest rectangle encompassing all the letters or symbols:
- 4) Back to back signs may be counted as one sign.

**E) Illumination of Signs.** Illuminated signs shall be lighted so as not to produce undue glare, hazard, or distraction to traffic of adjacent uses of land. Illumination shall be properly focused upon the sign itself. Interior illuminated signs shall contain dark background and light lettering to reduce glare.**F) Placement of Signs.** Notwithstanding those district setback requirements for structures, freestanding signs may be placed at the edge of the highway right of way. However, such signs shall not be located within 20 feet of adjacent private property unless combined (or on the same stand with) the sign of an adjacent business.**G) Signs not meeting Review Standards in (C)** may apply for a conditional use permit from the Development Review Board.**H) Any sign which becomes in disrepair shall be repaired or removed in 30 days.**

## SECTION 4.9 STORAGE OF JUNK AND LICENSED JUNKYARDS

**A) Storage of Junk.** Junk motor vehicles and junk (as defined in Article 7) may be stored on property only in a licensed junkyard under Title 24, Chapter 61, §2241 and 2242 V.S.A permitted by these regulations under (B) below or if the following conditions apply:

- The junk does not take up more than 200 square feet of area and does not include more than 3 junk motor vehicles;
- The junk is not located within setbacks; and
- The junk is effectively screened from view of a public highway and adjacent properties during all seasons of the year (see Section 4.9(B)(2)(d)).

Farm vehicles are exempt from this provision.

**B) Licensed Junkyards.** New or expanded licensed junkyards, to include facilities for the storage of four (4) or more junk motor vehicles, may be permitted within designated zoning districts subject to conditional use review under Section 2.2 and the standards below.

- 1) **Additional Application Requirements.** In addition to application requirements under Section 2.2, the applicant for a new or expanded junkyard shall submit a description of existing and proposed operations, including all equipment to be used on-site, and a siteplan that includes the following information:
  - 1) the extent in area of existing and/or proposed junkyard areas, including all storage and processing areas, and distances from property boundaries, public streets, wetlands, surface waters and public and private wells on-site and in the vicinity;
  - 2) site contours that show existing and proposed grades and drainage patterns,
  - 3) test boring results indicating soil types, and depths to bedrock and seasonal high water tables within the proposed area of operation; and
  - 4) existing and/or proposed ground water monitoring well locations, if any.
- 2) **Review Standards.**
  - a) The parcel of land for a junkyard shall be no less than two (2) acres in area or the minimum lot size for the district in which it is located, whichever is greater. No junkyard shall exceed five (5) acres in total area or extent.
  - b) All materials and equipment shall be stored in one or more designated yard areas, approved by the Development Review Board, which shall be set back at least 50 feet from all road rights-of way and property lines, and 150 feet from all surface waters and wetlands. Required setbacks may be increased as deemed necessary by the Board, based on specific site conditions, to protect water quality and adjoining properties. All activities associated with the operation of the yard, including the storage of equipment and scrap materials, shall be limited to the designated yard area.
  - c) Designated yard areas are specifically prohibited within designated flood hazard and water supply source protection areas.
  - d) Yard areas shall be screened year-round from view of public rights-of-way, and from adjoining residential properties. Landscaping and/or fencing may be required by the Board as deemed necessary to provide adequate screening. No waste, scrap, parts or materials shall be stacked, piled or stored higher than the fence or screen. The Board may require landscaping along fenced areas that border public rights-of-way or adjoining properties in order to minimize adverse visual impacts.

- e) The yard area shall be generally inaccessible to the general public and secured as necessary to protect public health, safety, and welfare.
  - f) The on-site storage of materials shall not adversely affect surface, ground or drinking water supplies, or other identified natural or cultural features on-site, or in the vicinity of the yard.
  - g) A junkyard shall meet all applicable requirements of these regulations, including but not necessarily limited to parking requirements under Section 4.6, performance standards under Section 4.7, and sign requirements under Section 4.8.
  - h) All junkyards shall be licensed in accordance with State of Vermont regulations pertaining to junkyards, and shall be responsible for all upkeep and maintenance of fences, screening, and other required site improvements, and the proper storage and disposal of salvaged and hazardous materials, as required under municipal and state regulations, and associated conditions of approval.
- 3) A junk yard may also include as accessory to the yard, subject to conditional use review, an office or equipment storage and maintenance facility.
  - 4) All materials shall be removed from the site within 12 months of the cessation or abandonment of operations; and the site shall be restored to a safe, usable condition. Site restoration, including the cleanup and disposal of hazardous materials, shall be subject to all applicable state and federal regulations. A site restoration plan may be required as a condition of approval.

#### **SECTION 4.10 CAMPING VEHICLES**

- A) Any camping vehicles used for living quarters and sited so it is not readily movable shall be deemed a dwelling and shall be subject to all zoning and health regulations applicable to dwellings.
- B) Property owners may park their own camping vehicles, or those of a guest, on their property. Such parked camping vehicles shall not be connected to utilities or used as living quarters except on occasional basis, (e.g. 2-week family visit).

#### **SECTION 4.11 FENCES**

- A) The erection of fences in the Village Residential District, Mixed Use District and Commercial/Industrial District shall have approval of the Administrative Officer.
- 1) Fences are permitted in the front and side yards. All fences shall be 50% open construction, an example (2 inch picket, 2 inch open space) such as wood rail, picket, or iron and do not exceed (4) feet in height above average grade. Fences are also permitted in rear yards. Fences in rear yards may be of solid construction, no more than 6 feet in height.
  - 2) Fences must be constructed of materials that will not cause injury to anyone coming in contact with them.
  - 3) As a safety issue, at an intersection a fence adjacent to the edge of the public-right-of-way shall be limited to no more than three and one half (3 ½) feet in height unless it is a

variety that will not cause visual obstruction to a pedestrian or driver.

- 4) Fences do not need to comply with district setback requirements, but shall be set back from adjacent side and rear property lines to allow maintenance.
- 5) Fences must be maintained as not to cause injury to anyone coming in contact with them.
- 6) Fences not meeting the standards in 4.11 may apply for a conditional use permit from the Development Review Board.

## **SECTION 4.12 LANDSCAPING**

**A) Adequacy of landscaping and screening in the Mixed Use District, Village Residential District and Commercial/Industrial District.** Particular consideration shall be given to preservation of existing vegetation and important features of the site, including large trees, views and vistas, fences, stone walls, and shrubs; visibility of unsightly or incompatible areas from the road and adjoining properties; and the adequacy of landscaping materials to meet seasonal conditions, soil conditions and erosion control, and light on the site.

- 1) Landscaping shall take the form of shade trees, deciduous shrubs, evergreens, well kept grasses, and ground cover.
- 2) Landscaping is required to be installed and maintained in front and side yards and may be required where rear yards abut residential properties or public roads. Adequate setbacks and site grading may be required to insure that the plantings are not adversely affected by traffic and road salt. Street trees may be required along state and town highways particularly in the Mixed Use, Village Residential, and Commercial/Industrial Districts. Landscaping shall be installed within a time frame established by the Development Review Board.
- 3) In determining the amount and type of plantings to be required, the Development Review Board shall take into account at least the following:
  - a) Existing trees, shrubs, evergreens and other vegetation to be preserved on the site;
  - b) The visibility of incompatible or unsightly areas from public roads and/or adjacent properties.
  - c) The landform and overall landscaping plan for the development;
  - d) Other factors which, in the Development Review Board's judgment, affect the safety and appearance of the development.
- 4) To control erosion, the site plan shall meet the following standards:
  - a) The development plan shall fit the topographic, soil and vegetation characteristics of the site with a minimum of clearing and grading.
  - b) Existing natural drainage patterns shall be preserved whenever possible.
  - c) The sequence of construction activities shall be designed so that the smallest area possible is disturbed at any one time. Only areas where active construction is taking place should be exposed. All other areas should be protected by vegetation and structural control measures.
  - d) Seed and mulch shall be applied as soon as possible to disturbed soils.
- 5) Outdoor lighting may be required where deemed necessary by the Development

Review Board to illuminate areas such as streets, sidewalks and parking areas. Outdoor lighting fixtures shall be designed to direct light downward and adjusted so as not to cast light directly on adjacent roadways or properties. The Development Review Board may prohibit fixtures that can cause excessive glare within the property or on adjoining properties, and may limit the number, intensity, and location of fixtures to provide for even height treatment and to ensure limited impact on surrounding properties.

*Amended 3/6/2012*

## **SECTION 4.13 OUTDOOR DISPLAYS**

A) Outdoor displays of goods for sale shall be prohibited. This standard shall not apply to the following products regardless of the associated land use:

- 1) Farm produce;
- 2) Automobiles;
- 3) Farm equipment;
- 4) Retail sale of any kind on sidewalks, patios, or porches provided that all associated products are brought inside at closing. Retail sale on sidewalks located within the public-right-of-way may require approval of the Richford Selectboard.



## **ARTICLE 5. SPECIFIC USE STANDARDS**

### **SECTION 5.1 ACCESSORY APARTMENTS AND ACCESSORY DWELLING UNITS**

- A) Accessory Apartments.** One accessory apartment, located within or appurtenant to a single family dwelling, shall be a permitted use. An accessory dwelling unit means an efficiency or one bedroom apartment that is clearly subordinate to a single family dwelling and has facilities and provisions for independent living, including sleeping, food preparation and sanitation, provided the unit complies with all the following:
- 1) The owner must occupy either the primary or accessory dwelling, and
  - 2) All applicable setback and parking requirements specified in the bylaws are met; and
  - 3) Floor space shall not exceed 30 percent of the floor space of the existing living area of the single family residence or 400 square feet, whichever is greater.
- B)** In addition to the provisions in (A) above, the creation of an accessory dwelling unit will require conditional use approval, when one or more of the following is involved:
- 1) A new accessory structure, constructed after the enactment of these bylaws.
  - 2) An increase in the height or floor area of the existing dwelling, or
  - 3) An increase in the dimensions of the parking areas.
- C) Accessory Dwelling Unit to a Single Family Dwelling Unit on a Farm.** One accessory dwelling unit to a single family dwelling on an operating farm is permitted for the purpose of providing housing to people working on the farm. The dwelling must meet the setback requirements for the zoning district and comply with the Town Housing Code Ordinance if in the Village area.

### **SECTION 5.2 CAMPGROUNDS**

- A)** New campgrounds, or any addition, or alteration to an existing campground shall be subject to the following regulations:
- 1) Conditional use approval is required.
  - 2) Campgrounds shall provide for lavatory, shower, and toilet facilities and individual camping vehicle or tent spaces. All campgrounds shall comply with State regulations.
  - 3) A strip of land at least twenty-five (25) 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. The Development Review Board may reduce or eliminate this landscaped area provision if such a modification or waiver will make it possible to preserve a scenic view from the campground providing that privacy for adjacent property owners can be maintained.

4) Collector roads within the campground shall meet the following minimum standards:

	One-Way Roads	Two-Way Roads
Right-of way Width	18 feet	33 feet
Gravel Depth	12 inches	12 inches
Gravel Width	10 feet	20 feet

## SECTION 5.3 NATURAL RESOURCE EXTRACTION (COMMERCIAL)

- A) Applicability.** Commercial or industrial extraction of earth resources shall be permitted in certain districts, only upon Conditional Use Approval and Site Plan Approval from the Development Review Board (see Table 3.2). Pre-existing land fill and excavation are exempt from regulation if continued at the historical rate with no substantial change.
- B) Supplemental Application Requirements.** Before approval may be granted, the applicant shall:
- 1) Submit an acceptable plan showing existing and proposed finished grades of the site to demonstrate that the site will be left in a usable condition;
  - 2) Agree to cover the finished grades, except exposed ledge rock, with at least 3 inches of topsoil and seed with a suitable crop cover upon completion of the operation; and,
  - 3) Post bond with the Town Treasurer sufficient to guarantee such restoration of the site, if required by the Development Review Board (see also Section 4464 of the Act).
- C) Review Standards.** In determining conditional use approval, performance standards in Section 4.7 shall apply. The Development Review Board shall also consider impacts to roads and other infrastructure in its decision.

## SECTION 5.4 AUTO SERVICE STATIONS

- A)** In all districts where permitted, new auto service stations shall comply with the following:
- 1) A new auto service station shall not be located within three hundred feet of any lot occupied by a school, hospital, library, or religious institution.
  - 2) Lot size shall be at least 20,000 square feet.
  - 3) Lot frontage shall be at least 150 feet.
  - 4) Lot depth shall be at least 125 feet.
  - 5) Pumps, lubricating and other service devices shall be located at least thirty feet from the front lot line and side and rear lot lines.
  - 6) All fuel and oil shall be stored at least thirty-five feet from any property line.
  - 7) All automobile parts and dismantled vehicles are to be stored within a building, and no repair work is to be performed outside a building.
  - 8) No signs shall extend beyond the pumps, nor exceed fifteen feet in height.
  - 9) There shall be only a maximum of two access driveways from the street.

## **SECTION 5.5 HOME OCCUPATIONS**

A) No provision of these regulations may infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which is customary in a residential area and which does not have an undue adverse impact on the character of the residential area in which the dwelling is located. No zoning permit shall be required for a home office within a principal dwelling or attached garage which is carried on by a resident of that dwelling, and which involves no signs or outdoor storage or displays. For other home occupations that meet the following requirements, a zoning permit issued under Section 2.1 shall be required to document and record the use in the land records of the town:

- 1) The home occupation shall be conducted by residents of the dwelling and up to a maximum of two (2) nonresident employees on-site at any time.
- 2) The home occupation shall be conducted within the principal dwelling, an attached garage, or an accessory structure on the same lot, and shall not occupy a gross floor area greater than 1,000 square feet. Services may be provided off site.
- 3) Materials relating to the business may be stored outside if they are properly screened from view of adjacent roads and neighboring properties (see definition of screening).
- 4) The home occupation shall meet all performance standards set forth in Section 4.7.
- 5) Parking is provided off-street and not located in the setbacks.
- 6) Adequate provisions shall be made for water, wastewater and the disposal of solid waste, in accordance with applicable municipal and state regulations.

## **SECTION 5.6 MOBILE HOMES AND MOBILE HOME PARKS**

A) Pursuant to the Act, Section 4412 (1), a mobile home shall be considered a single-family dwelling and shall meet the same zoning requirements applicable to single-family dwellings, except when unoccupied and displayed in a mobile home sales establishment.

B) Mobile homes may be permitted in a mobile home park subject to the requirements of this section and State law.

- 1) New mobile home parks, and any addition or alteration to an existing mobile home park shall require Planned Unit Development approval and Conditional Use approval from the Development Review Board.
- 2) The following additional standards shall be applied by the Development Review Board during Planned Unit Development review:
  - a) A mobile home park shall have a contiguous area of not less than five (5) acres nor more than fifty (50) acres. The maximum density of any mobile home park shall not exceed an overall average of one mobile home per acre.
  - b) A strip of land at least fifty (50) feet wide shall be maintained as a landscaped area abutting all mobile home park boundary lines. No mobile home unit or office, utility or service building may be placed in this buffer area. However, the Development Review Board may reduce or eliminate this landscaped area requirement if such a modification or waiver will make it possible to preserve a scenic view from the mobile home park, provided that privacy for adjacent property owners can be maintained.

- c) The minimum mobile home lot size shall meet the district requirement unless all lots are provided with off-site sewage disposal, in which case the minimum mobile home lot size shall be 50% less than the district minimum lot size.
- d) Each mobile home lot shall have at least fifty (50) feet of frontage on mobile home park road. Said roads shall be constructed to the Selectboard's Road Standards.
- e) A suitable non-porous pad at least four (4) inches thick shall be provided for each mobile home lot. A minimum yard of twenty-five (25) feet and a minimum setback from the access road of twenty-five (25) feet are required on each mobile home lot.
- f) 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 inequitable financial hardship will be created.
- g) Each mobile home park shall provide at least 10% of its total size, as open space, for recreational purposes.

## **SECTION 5.7      LIMITATION ON THE REGULATION OF PUBLIC FACILITIES**

- A) The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering 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 state department of education.
  - 3) Churches and other places of worship, convents, and parish houses.
  - 4) Public and private hospitals.
  - 5) Regional solid waste management facilities certified under 10 V.S.A. Chapter 159.
  - 6) Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.

## **SECTION 5.8      RESIDENTIAL CARE HOMES**

- A) A residential care home or group home, to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A. §4501, shall be considered by right to constitute a permitted single family residential use of property, except that no such home shall be so considered if it locates within 1,000 feet of another existing or permitted such home.

## **SECTION 5.9      WIRELESS COMMUNICATION FACILITIES**

- A) **Authority and Purpose.** New or expanded telecommunications facilities, 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 Development

Review Board 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 2.3 and the criteria listed in (E) below.

**B) Exemptions.**

- 1) Antennae with an aggregate area of not more than eight (8) square feet on the largest face and which are on masts that extend not more than twelve (12) feet above the specific roof area to which they are attached and are not located on historic landmarks and structures are exempt from these regulations. Amateur radio, citizens band radio, AM or FM radio, or broadcast television service towers that exceed this requirement but that do not exceed 100 feet in height are exempt from the provisions of this section, but require a zoning permit as an accessory structure.
- 2) No permit shall be required for a Wireless Telecommunication Facility that is used exclusively for municipal radio dispatch service or emergency radio dispatch service and which does not exceed 100 feet in height.
- 3) The following requires a Certificate of Public Good from the Department of Public Service under Act 248, which preempts these regulations:
  - a) Placement of wireless communications facilities on electric transmission or generation facilities; and
  - b) Single application to construct or install 3 or more telecommunications facilities, each at least 50 ft above ground level, within 3 years as part of a network.

**C) 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 vicinity map showing the entire vicinity within a 2 mile radius of the Facility, including the location of all existing and proposed towers, topography, public and private roads and driveways, buildings and structures, utilities, water bodies, wetlands, 50 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.
- 2) 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 shall be drawn at a minimum scale of 1 inch = 50 feet.)
- 3) In the case of a site that is forested, the approximate average elevation of the existing vegetation within 50 feet of any tower base.
- 4) A report from a qualified 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. In the alternative, a coverage map may be provided.
  - g) Demonstrates the Facility's compliance with the standards set forth in this bylaw 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 Development Review Board to evaluate the application.
- 5) 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 this Bylaw and all other applicable laws.
  - 6) 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.
  - 7) 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.

**D) Construction Standards.** Wireless Telecommunications Facility shall conform to the following construction standards:

- 1) The Facility will not be built on speculation. If the applicant is not a Wireless Telecommunication Service Provider, the applicant shall provide a copy of a contract or letter of intent showing that a Wireless Telecommunication Service Provider is legally obligated to locate a Wireless Telecommunication Facility on lands owned or leased by the applicant.
- 2) The Development Review Board may require the applicant to provide a bond, or other form of financial guarantee acceptable to the Board, to cover the cost of removal of the Facility, should the Facility be abandoned or cease to operate.
- 3) The applicant shall demonstrate 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 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. Failure to file a certificate within the timeframe requested by the Development Review Board shall mean that the Facility has been abandoned.
- 4) The Facility will be properly identified with appropriate warnings indicating the presence of radio frequency radiation.
- 5) 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.

- 6) The Facility provides reasonable opportunity for the installation and operation of other telecommunications equipment.
- 7) Unless otherwise approved by the Development Review Board, 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 Development Review Board 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 Development Review Board may cause the Facility to be removed. The costs of removal shall be assessed against the Facility owner. 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.

**E) Additional Conditional Use Criteria.** Notwithstanding the construction standards in (D) above, the Development Review Board 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 Conditional Use Standards in Section 2.2 and the following criteria:

- 1) The Facility will not project more than 20 feet above the average elevation of the tree line measured within 50 feet of the highest vertical element of the Wireless Telecommunication Facility, unless the proposed elevation is reasonably necessary to provide adequate Wireless Telecommunication Service capacity or coverage or to facilitate installation and operation of facilities.
- 2) The minimum distance from the base of any tower to any property line is not less than 100% the total elevation of the tower, including antenna or equipment.
- 3) 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 this bylaw.
- 4) The Facility will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.
- 5) The Facility will not have an undue adverse aesthetic impact. In determining this, the Development Review Board shall consider the following factors:
  - a) The results of the 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 on a public highway 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.
  - h) The sensitivity or unique value of a particular view affected by the Facility.
  - i) Any significant disruption of a viewshed that provides context to an important historic or scenic resource.
- 6) The Facility will not generate undue noise.

## **SECTION 5.10 MIXED USES**

- A) More than one primary use may be allowed within a single building or in multiple buildings on a single lot in certain zoning districts as specified in Table 3.2, if permitted as a mixed use in accordance with the following provisions:
- 1) Each of the proposed uses is otherwise allowed as a permitted or conditional use in the district in which the mixed use is proposed.
  - 2) The combined uses meet all applicable standards for the district in which the mixed use is proposed, including minimum setbacks and frontage, and minimum lot size (unless such standards are modified as part of a planned unit development).
  - 3) The mixed use meets all applicable general regulations and use provisions contained in Articles 4 and 5.



## **ARTICLE 6. ADMINISTRATION AND ENFORCEMENT**

### **SECTION 6.1 MUNICIPAL ADMINISTRATIVE REQUIREMENTS**

**A) Appointments.** The following appointments shall be made in association with the administration and enforcement of these regulations as provided for in the Act:

- 1) **Zoning Administrator.** A Zoning Administrator shall be nominated by the Planning Commission and appointed by the Selectboard for a term of three years. The Zoning Administrator may hold any other municipal office, except the Development Review Board. The Zoning Administrator may be removed for cause at any time by the Selectboard after consultation with the planning commission. The Zoning Administrator shall administer and enforce this zoning bylaw literally, and shall not have the power to permit any development which is not in conformance with it.
- a) **Responsibilities of the Zoning Administrator.** The Zoning Administrator should coordinate a unified effort on behalf of the municipality in administering its development review programs. In doing so, specific duties of the Zoning Administrator include, but are not limited to the following:
  - i) 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.
  - ii) Approve, deny, or refer applications for zoning permits under Section 6.1(C).
  - iii) Warn public hearings of the Development Review Board.
  - iv) Issue Certificates of Occupancy under Section 2.1(F).
  - v) As necessary and/or in response to a written complaint, inspect and investigate public or private property at reasonable times in order to determine compliance with these regulations.
  - vi) Pursue violations of these regulations through procedures set forth under Section 6.3.
  - vii) Maintain a full and exact record, available to the public, of all applications and fees received, permits issued and denied, and violations reported.
  - viii) Maintain a record of development in the flood hazard area.
- b) **Acting Zoning Administrator.** The Planning Commission may nominate and the Selectboard may appoint an acting Zoning Administrator who shall have the same duties and responsibilities as the Zoning Administrator in the Zoning Administrator's absence.
- c) **Assistant Zoning Administrator.** The Planning Commission may nominate and the Selectboard may appoint an Assistant Zoning Administrator to assist the Zoning Administrator with his/her duties, only with clear policies regarding the authority of the Zoning Administrator in relation to the Assistant Zoning Administrator.
- 2) **Development Review Board.** The Development Review Board shall be appointed by the Selectboard and shall consist of not less than three (3) nor more than nine (9) members. A Development Review Board member may also be a member of the Planning Commission. Vacancies shall be filled by the Selectboard for unexpired terms

and upon the expiration of terms. Any member of the Development Review Board may be removed for just cause by the Selectboard upon written charges and after a public hearing. The Development Review Board shall adopt rules of procedure and ethics policies with regard to conflicts of interest to guide its official conduct in accordance with the requirements of the Act [§4461] and Vermont's Open Meeting Law [1 V.S.A. §§310-314]. The Development Review Board shall have the following functions:

- a) Grant or deny appeals of decisions of the Zoning Administrator.
- b) Grant or deny applications for a conditional use approval.
- c) Grant or deny applications for site plan approval.
- d) Grant or deny requests for planned unit development approval.
- e) Grant or deny applications for major subdivision approval.
- f) Grant or deny applications for development in the Flood Hazard Area, as required in Section 2.6.
- g) Grant or deny applications for waivers.
- h) Grant or deny requests for variances.

3) **Planning Commission.** There shall be a Planning Commission elected by the townspeople, the number of which shall be determined by the Selectboard. The Planning Commission shall have the following functions:

- a) Prepare amendments to the Richford Zoning Bylaws and other regulations as permitted by 24 V.S.A. Chapter 117.
- b) Prepare and update the Town Plan every five years and prepare amendments to the Plan as necessary.
- c) Prepare and present to the Selectboard a recommended capital budget and program for a period of five years, as set forth in section 4440 of the Act, for action by the Selectboard as set forth in section 4443 of the Act;
- d) Other such acts or functions as it may deem necessary or appropriate to fulfill the duties and obligations imposed by, and the intent and purposes of the Act.

**B) Fees.** The Selectboard shall establish a schedule of application fees and amend the schedule as needed to cover some or all the cost of the administration and enforcement of these bylaws. In accordance with the Act [Section 4440], the fee schedule may include provisions that require applicants to pay for reasonable costs of an independent technical review of their applications. The schedule of fees shall be posted in the offices of the Municipal Clerk and Zoning Administrator, and may be altered or amended only by resolution of the Selectboard.

**C) Issuing Zoning Permits.** A zoning permit shall be issued by the Zoning Administrator only in accordance with Section 4449 of the Act and the following provisions:

- 1) Within thirty (30) days of receipt of a complete application, including all application materials and fees, the Zoning Administrator shall act in writing to either issue or deny a zoning permit, or refer the application to the Development Review Board for review and action. Following the issuance of all required board approvals, a zoning permit must be issued by the Zoning Administrator before the application is deemed permitted. A zoning permit shall include a statement of the time within which appeals may be taken. In accordance with Sections 4448 and 4449 of the Act, if the Zoning Administrator fails

to act within the 30-day period, it may cause deemed approval of the application.

- 2) When a permit is issued under these regulations, the applicant shall post a permit notice, on a form provided by the Town of Richford, within view of the public right-of-way most nearly adjacent to the subject property until the applicable time for appeal under Section 9.2 has passed. The notice shall contain a statement of the appeal period and information noting where a full description of the project and approval can be found.
- 3) The Zoning Administrator, within three (3) days of the date of issuance, shall deliver a copy of the zoning permit to the Listers; and shall post a copy of the permit in the municipal offices for a period of fifteen (15) days from the date of issuance.
- 4) In the Flood Hazard Overlay District:
  - a) No permit for new construction or substantial improvement shall be granted until a copy of the application is mailed or delivered by the Zoning Administrator or by the Development Review Board, to the State National Flood Plain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section and either thirty (30) days have elapsed following the mailing or the agency delivers comments on the application, which ever comes first.
  - b) Adjacent communities and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section shall be notified at least 30 days prior to issuing any permit for the alteration or relocation of a watercourse and copies of such notification shall be submitted to the Administrator of the National Flood Insurance Program.

**D) Zoning Permit Recording Requirements.** Within 30 days after the issuance of a zoning permit or notice of violation, the Zoning Administrator shall deliver either the original, a legible copy, or a notice of the permit or violation to the Municipal Clerk for recording in the municipal land records as provided in 24 V.S.A. 1154(a). The applicant may be charged the cost of the recording fees as required by law.

- 1) 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.

**E) Public Notice Requirements.** A warned public hearing shall be required for conditional use review, appeals of Zoning Administrator decisions, variances, waivers and planned unit development review in accordance with the provisions below. Public notice shall be given not less than 15 days prior to the date of the public hearing by all of the following:

- a) Publication of the date, place and purpose of the hearing in a newspaper of general circulation in the municipality;
- b) Posting of the same information in three (3) or more public places within the

municipality, including, the posting of a notice within view from the public right-of-way nearest to the property for which the application is being made;

- c) Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, 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.
- 1) Public notice of all other types of development review hearings, including site plan review and major subdivision review, shall be given not less than seven (7) days prior to the date of the public hearing, and shall at minimum include the following:
  - a) Posting of the date, place and purpose of the hearing in three (3) or more public places within the municipality, and
  - b) Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, 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.
- 2) No defect in the form or substance of any required public notice under this section shall invalidate the action of the Zoning Administrator or Development Review Board where reasonable efforts have been made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action of the Zoning Administrator is ruled to be invalid by the Development Review Board, the action shall be remanded to the Board to provide new posting and notice, hold a new hearing if required, and take a new action.

**F) Issuing Decisions of the Development Review Board.** The Development Review Board shall issue a decision within 45 days after the adjournment of a hearing. Copies of each decision shall also be mailed to every person or body appearing and having been heard at the hearing, be recorded in the municipal land records, and a copy maintained on file in the municipal office in accordance with the Act. Failure to issue a decision within the 45-day period may cause deemed approval. An approval by the Development Review Board does not deem the application approved until a zoning permit is issued by the Zoning Administrator.

- 1) All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on recorded evidence. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals under Section 6.2 may be taken. The minutes of a meeting may suffice, provided that the factual basis and conclusions relating to the review standards are provided in accordance with these requirements.
- 2) In making a decision in favor of the applicant, the Development Review Board may attach conditions and safeguards as it deems necessary to implement the purposes of the Act, these regulations, and the municipal plan currently in effect.

**G) Permit Effective Date.**

- 1) **For permits issued without DRB review.** No zoning permit shall take effect until the time for appeal under Section 6.2(A) has passed or, in the event that a notice of appeal is properly filed, until final adjudication of that appeal by the Development Review Board is complete.
- 2) **For permits issued with DRB review.** No zoning permit shall take effect until the time for appeal under Section 6.2(B) has passed or in the event that a notice of appeal is properly filed, until the Environmental Court issues a stay or the expiration of 15 days, which ever comes first.

**H) Permit Expiration.**

- 1) **Zoning Permits.** Zoning permits remain in effect for one (1) year from the date of issuance, unless the permit specifies otherwise. All development authorized by the zoning permit shall be substantially commenced within this period. At a minimum, development must include the complete construction of an access, a foundation, and a wastewater and water supply permit, or the zoning permit shall become null and void and reapplication and approval for further development shall be required.
  - a) **Extension.** The Zoning Administrator may administratively issue one (1) permit extension of not more than one (1) year from the date of application, if the application for an extension is made in writing prior to permit expiration, and it is determined by the Zoning Administrator that the extension is justified due to delays in the issuance of other necessary permits, project financing, or other unforeseen circumstances.

**I) Meeting and Hearing Requirements.** All meetings and hearings of the Planning Commission and Development Review Board, except for deliberative and executive sessions, shall be open to the public.

- 1) **Quorum.** For the conduct of any hearing, and the taking of any action, a quorum shall be not less than the majority of members of the Development Review Board or the Planning Commission.
- 2) **Minutes.** The Development Review Board and Planning Commission shall keep minutes of all its proceedings, which shall include the names of all members present, names of other active participants, all motions, proposals, and resolutions made, and the results of any vote taken. Minutes shall be filed in the Town Office as public records not more than 5 days after the meeting.
- 3) **Public Hearings.** Public hearings of the Development Review Board shall be noticed and warned in accordance with (E) above. In accordance with the Board's adopted Rules of Procedure and Ethics Policies, in any public hearing there shall be an opportunity for each person wishing to achieve status as an interested person to demonstrate that the criteria set forth under Section 4465 of the Act are met. The Development Review Board shall keep a record of the name, address, and participation of each of these persons.
  - a) During all public hearings, the Development Review Board may:
    - i) examine or cause to be examined any property, maps, books, or records bearing upon the matters concerned in that proceeding;
    - ii) require the attendance of any person having knowledge in the premises;

- iii) take testimony and require proof material for its information; and
- iv) administer oaths or take acknowledgement in respect of those matters.

**4) Continued Hearings.** The Development Review Board may recess a hearing on any application or appeal pending the submission of additional information, provided that the next hearing date and place is announced at the hearing.

**J) Combined Review.** In cases where development proposals require more than one type of development review, the Development Review Board may warn and hold a joint hearing for the purpose of reviewing and acting on the proposal. In cases where a joint hearing cannot be conducted to address each necessary review, the proceedings for each review shall occur concurrently or semi-concurrently (initiating one review process while the preceding process is nearing completion).

- 1) To the extent feasible, the review process shall be conducted in the following order, as applicable:
  - a) Access by right-of-way; then
  - b) Site Plan; then
  - c) Conditional Use Review; then
  - d) Requests for Variances; then
  - e) any other reviews required by these bylaws
- 2) All notice requirements and provisions applicable to each purpose of the hearing shall be complied with. Notice for combined review, to the extent feasible, shall be made in the same public notice. In the case of differing notice requirements, the process which provides more notice, by amount of time or by other means, shall apply.
- 3) All decision requirements and deadlines applicable to each purpose of the proceedings shall apply. Separate written decisions shall be issued for each review conducted as part of the combined review, but shall be coordinated where applicable.

**K) Review Under Pending Amendment to these Regulations.** If public notice has been issued by the Selectboard for their first public hearing on a proposed amendment to these regulations, for a period of 150 days following that notice the Zoning Administrator shall review any new application filed for compliance with the proposed amendment and applicable existing bylaws. If the new bylaw or amendment has not been adopted by the conclusion of the 150 day period, or if the proposed bylaw or amendment is rejected, the permit shall be reviewed under all applicable provisions of this bylaw and Section 4449 of the Act.

**L) Corrections to Bylaws.** A quorum of the Planning Commission and a quorum of the Selectboard shall meet jointly at a publicly warned meeting for the purpose of making spelling and typographic corrections to existing bylaw text without adding to or removing from the original intent of said text.

*Amended 3/6/2012*

## **SECTION 6.2 APPEALS**

**A) Decisions of the Zoning Administrator.** The applicant or any interested person, as defined in §4465 of the Act may appeal a decision or act of the Zoning Administrator to the Development Review Board by filing a written notice of appeal on a form available from the Zoning Administrator or the Town Clerk's Office within 15 days of the date of the decision or act.

- 1) The Development Review Board shall conduct a hearing on the appeal warned in accordance with Section 6.1(E) within sixty days of the filing of the notice of the appeal and mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.
- 2) The Development Review Board may reject an appeal without hearing, and issue a decision and findings of fact within 10 days of the filing of a notice of appeal, if the Board considers the facts or issues raised by the appellant to be substantially or materially the same as those decided in a previous appeal by the appellant.
- 3) Upon completion of a hearing, the Development Review Board shall issue a written decision in accordance with Section 6.1 (F). If an appeal is approved, the permit shall take effect immediately; if an appeal is denied, it shall be null and void immediately.

**B) Decisions of the Development Review Board.** The applicant or an interested person as defined in §4465 of the Act who has participated in a regulatory proceeding of the Development Review Board may appeal a decision rendered by the Development Review Board, within 30 days of such decision, to the Vermont Environmental Court. In accordance with Section 4471 of the Act, appeals to the Environmental Court shall also meet the following requirements:

- 1) "Participation" in a Development Review Board proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.
- 2) The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Court and by mailing a copy to the Zoning Administrator, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five (5) working days. 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 6.3 VIOLATIONS AND ENFORCEMENT**

**A) Violations.** The commencement or continuation of any land development, subdivision or use which is not in conformance with the provisions of these Regulations shall constitute a violation. All violations will be pursued in accordance with the 24 V.S.A. 4451, 4452 and/or as a civil matter enforced in accordance with the provisions 24 V.S. A. 1974a et, seq. at the discretion of the Zoning Administrator. Each day a violation continues shall constitute a separate offense.

**B) Notice of Violation.** Pursuant to 24 V.S.A. 4451, no action may be brought under this Section unless the alleged offender has had at least 7 days notice by certified mail that a

violation exists. The warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the 7 day period, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the 7 day period. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the bylaws after the 7 day notice period and within the next succeeding 12 months. Violations shall be recorded in the land records pursuant to Section 24 V.S.A.1154(a).

**C) Enforcement.** In accordance with 24 V.S.A. 4451, 4452, the Zoning Administrator shall commence or cause to be commenced in the name of the municipality any appropriate action, injunction or other proceeding to enforce the provisions of these Regulations.

1) **Vermont Superior Court – Environmental Division.** The Zoning Administrator may pursue or cause to be pursued any appropriate action, injunction or other proceeding in the name of the municipality to enforce the provisions of these Regulations through the Environmental Division of Vermont Superior Court. All fines imposed and collected for violations shall be paid over to the municipality.

2) **Civil Enforcement Pursuant to 24 VSA 1974a.** The Zoning Administrator may pursue or cause to be pursued enforcement action in the name of the municipality through the Judicial Bureau if the penalty for all continuing civil ordinance violations is \$800.00 or less. All enforcement matters under Title 24, Chapter 117 greater than \$800.00 shall be brought in the Vermont Superior Court-Environmental Division. Penalties shall be imposed for violations of any provision of these Regulations in accordance with 24 VSA 1974a and the schedule below:

- a) A civil penalty of \$50 may be imposed for the initial violation of these Regulations. The Penalty for the second offense shall be \$100, and the penalty for each subsequent offense shall be \$200.
- b) A waiver fee may be collected, in lieu of a civil penalty, for any person who declines to contest a municipal complaint and pays the following waiver amounts for each violation. The waiver fee shall be set at \$25 for the first offense, \$50 for the second offense, and \$100 for each subsequent offense.

**3) Enforcement Limitations.**

- a) The municipality shall observe any limitations on enforcement proceedings relating to municipal permits and approvals as set forth in 24 V.S.A. 4454. An action, injunction or other enforcement proceeding relating to any municipal land use permit may be instituted within 15 years of the date the alleged violation first occurred, and not thereafter. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted.
- b) No action, injunction or enforcement proceeding may be instituted to enforce an alleged violation of a municipal land use permit which received final approval from the applicable board, commissioner, or officer of the municipality after July 1, 1998, unless the municipal land use permit or a notice of the permit was recorded in the land records of the municipality as required by 24 V.S.A. 4449.

**D)** Nothing in this Section shall prevent any action, injunction or other enforcement proceeding by a municipality under any other authority it may have, including, but not limited to, a



municipality's authority under Title 18 relating to the abatement or removal of public health risk or hazard,

**E) Complaints.** Whenever a violation of these Regulations occurs, or is alleged to have occurred, any person may file a written complaint with the Zoning Administrator. The complaint shall state fully the causes and basis for the alleged violation. The Zoning Administrator shall properly memorialize such a complaint, immediately investigate and take action as appropriate in accordance with these Regulations.

**F) Violation of Flood Hazard Area Overlay District Regulations.** Where a violation of the Flood Hazard Overlay District standards and regulations in Section 2.6 has not been cured after a warning notice has been sent in accordance with (C) above, 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.

## **ARTICLE 7. DEFINITIONS**

### **SECTION 7.1 GENERAL DEFINITIONS**

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 Administrative Officer may be appealed to the Development Review Board for a declaratory ruling. In such cases, the Board shall base its ruling upon the following definitions, State Laws, and the need for the reasonable and effective implementation of this bylaw. For the purpose of these regulations, certain terms or words used herein shall be interpreted as follows:

### **SECTION 7.2 SPECIFIC DEFINITIONS**

**Accessory use/ structure:** A use or structure which is incidental and subordinate of the principal use or structure and located on the same lot, such as patios, porches, garages, tool sheds, above and in-ground pools, and other similar structures. A structure used for dwelling purposes shall not be considered an accessory structure.

**Accessory Dwelling:** A secondary dwelling unit established in conjunction with and clearly subordinate to a primary single-family dwelling unit that is retained in common ownership, is located within, attached to, or on the same lot as the primary dwelling unit, and which otherwise meets the criteria in Section 5.1. The accessory dwelling unit shall have facilities and provisions for independent living, including sleeping, food preparation, and sanitation facilities.

**Antenna:** A device attached to a tower or other structure for transmitting or receiving electromagnetic waves.

**Auto Service Station:** Any area of land, including structures thereon that is used or designed to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or servicing such motor vehicles. A service station is not a sales, or major repair agency for autos, trucks or trailers.

**Building:** A structure designed, built, or used as a shelter for persons, animals, or property. "Buildings" shall include lunch wagons, camping vehicles, mobile homes, etc., when sited in such a manner that they are not readily movable.

**Campgrounds:** A place or business providing land for two or more campsites for occupancy by camping units (tents or camping vehicles) as temporary living quarters for recreation, education, or vacation purposes.

**Camping 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.

**Childcare Home:** A childcare business located in a home where the owner or operator is to be licensed or registered by the state for child care serving up to six (6) full time children and four (4) part time children.

**Childcare Facility:** A family childcare business located in a home or business where the owner or operator is to be licensed or registered by the state for child care that does not meet the definition of a childcare home.

**Commercial Use 1** - Any use of land or structures for the purpose of buying, selling, providing not for profit, storing, or warehousing goods or services where the following conditions apply:

- A) The goods, services, and/or business are predominantly contained inside a primary structure; and
- B) The space devoted to sales, service, storage, and/or business, including parking and loading, is more than 5,000 square feet.

*Examples of Commercial 1:* If they meet the space requirements in (B) above, retail stores or warehouses, office complexes, bank headquarters, lodging facilities, social service organizations or non-profits, newspaper or print businesses, businesses providing a technical service to others, research and testing labs, or indoor recreation facilities.

**Commercial Use 2** - Any use of land or structures for the purpose of buying, selling, providing not for profit, storing, or warehousing goods or services, which are commonly displayed or sold outside a primary, enclosed structure or by drive-up. *Examples of Commercial 2:* gasoline stations, car washes, mobile home sales lots, car dealerships, drive in restaurants, outdoor or covered flea markets, farmers markets, outdoor recreation facilities.

**Development/ Land Development:** The division of a parcel into two or more parcels; new construction, structural alteration, replacement, or relocation of any structure; the new placement, replacement, change in size, or relocation of any sign; any new use or change in use of any structure, or land, or extension of use of land.

**Dwelling, Seasonal:** A dwelling unit not used as a principal residence that may be occupied on weekends, during the summer or winter, or other brief periods during the year.

**Dwelling, Single-Family:** A detached residential dwelling unit designed for and occupied by one family only.

**Dwelling, Two-Family:** A residential building designed for or occupied by two families living independently of each other in individual dwelling units.

**Dwelling, Multi-Family:** A building containing three or more dwelling units, including units that are attached horizontally (common for condominium developments) and units that are located one over the other vertically. Condominium style multi-family buildings are included in this definition, where each unit is owned individually, and the structure, common areas, and

facilities are owned either separately or in common on a proportional, undivided basis. Ownership does not affect whether a building is defined as a multi-family residential building.

**Dwelling, Unit:** One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

**Fence:** A barrier intended to prevent intrusion or make a boundary.

**Family:** One or more persons occupying a single dwelling unit and living as a single housekeeping unit, as distinguished from a group occupying a board house, lodging house, club, fraternity or hotel.

**FCC:** Federal Communications Commission

**Frontage:** Length of the lot boundary measured along the public road right-of-way or mean watermark of a public waterway.

**Gross Leasable Area:** The total floor area designed for tenant occupancy and exclusive use, including basements, mezzanines, and upper floors, if any; expressed in square feet and measured from the center line of joint partitions and from outside wall faces.

**Height, Building:** Vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat and mansard roofs, and to the average height between eaves and ridge for other types of roofs.

**Height, Structure:** The vertical distance measured from the average grade at the elevation of the proposed finished grade to the highest point of such structure.

**Historic Commercial Storefront:** The main façade of a structure facing the street that is characterized by having an at-grade entrance, substantial window coverage (over 40 %) being a minimum of 10 feet in height or by being listed on the State or National Register of Historic Structures.

**Home Occupations:** An occupation, carried on within a principal or accessory residential structure, which is customarily incidental and secondary to the use of the premises for dwelling purposes, and which does not substantially alter the character thereof.

**Hospital:** An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions and including, as an integral part of the institution, related facilities, such as laboratories, outpatient facilities, training facilities, medical offices, and staff residences.

**Junk:** Old or scrap copper, brass, iron, steel and other old or scrap or nonferrous material,

including but not limited to old and discarded tires, household appliances, furniture, rope, rags, batteries, glass, rubber debris, waste, trash or any discarded dismantled, wrecked, scrapped or ruined motor vehicles or parts thereof.

**Junk Motor Vehicle:** A discarded, dismantled, wrecked, scrapped or ruined motor vehicle which is unregistered and non-inspected. This definition does not include farm vehicles.

**Junk Yard:** Any place of outdoor storage or deposit which is maintained, operated or used in connection with a business for storing, keeping, processing, buying or selling junk or as a scrap metal processing facility. "Junkyard" also means any place of outdoor storage or deposit, not in connection with a business which is maintained or used for storing or keeping four or more junk motor vehicles which are visible from any portion of a public highway. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs (see Section 2241 of the Act).

**Loading Space:** Off-street space used for the temporary location of one licensed motor vehicle, which is at least twelve feet wide and forty feet long and fourteen feet high, not including access driveway, and having direct access to a street or alley.

**Lot:** A lot is a parcel of land occupied or to be occupied by only one main building and the accessory buildings or uses customarily incident to it. A lot shall be of sufficient size to meet minimum dimensional requirements, and to provide such setbacks and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or other means of access approved by the Development Review Board. ***In no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this by-law.***

**Lot Line:** A line of record bounding a lot that divides one lot from another lot or from a public or private street or any other public space.

**Lot Line, Front:** A lot line separating a lot from a road right of way.

**Lot Line, Rear:** The lot line opposite and most distant from the front lot line. In the case of triangular or otherwise irregularly shaped lots, a line parallel to and at a maximum distance from the front lot line; for some lots a rear lot line may not exist.

**Lot Line, Side:** Any lot other than the front and rear lot line.

**Lot of Record:** Any lot which individually, or as part of a subdivision, has been recorded in the office of the Town Clerk.

**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".

**Manufacturing Use 1:** Any use of land or structures for the primary purpose of transformation

of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors, and the space devoted to manufacturing, storage, and parking is not more than 15,000 square feet or the number of employees is not more than 10 full time.

**Manufacturing Use 2:** Any use of land or structures for the primary purpose of transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors, and the space devoted to sales, service, storage, and required parking is more than 15,000 square feet.

**Mixed Use:** A building or structure within which is located two or more uses which are permitted in the district where the mixed-use building is permitted. Mixed uses may include two or more different commercial uses, commercial and residential uses, and/or commercial and manufacturing uses.

**Mobile Home:** a structure or type of manufactured home that is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation, includes plumbing, heating, cooling, and electrical systems, and is:

- A) transportable in one or more sections; and
- B) at least eight feet wide or 40 feet long or when erected has at least 320 square feet or if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32 feet long; or
- C) any structure that meets all the requirements of this subdivision except for size and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the standards established under Title 42 of the U.S. Code.

**Mobile Home Park:** any parcel or contiguous lots of land under common ownership or control on which are sited, or which is designed, laid out or adapted to accommodate, more than two mobile homes. A parcel or contiguous lots owned by agricultural employers providing up to four mobile homes for use by full-time workers or employees, and a parcel or contiguous lots used solely on a seasonal basis for vacation or recreational mobile homes shall not be considered a mobile home park.

**Natural Resource Extraction:** Any use that involves the extraction of solid or liquid resources from the earth, which may also include processing.

**New Construction:** New assembly or placement of a structure on a site including any related site preparations, excavation, and grading.

**Non-conforming Use:** A use of land or of a structure which does not conform to the (district) allowable use provisions of this bylaw, where such use conformed to all applicable laws, ordinances, and regulations prior to its enactment.

**Non-conforming Structure:** A structure or part thereof not in compliance with minimum

dimensional regulations including height, area, setback or off-street parking and similar requirements, where such structure complied with all applicable laws, ordinances, and regulations prior to the enactment of this bylaw.

**Non-Profit Business:** An organization that does not have financial profit as a main strategic objective. Nonprofit organizations include charities, professional associations, labor unions, and religious, arts, community, research, and campaigning bodies.

**Parking Space, Off-Street:** For the purposes of this by-law, 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 (approximately 9 feet wide and 19 feet in length). Required off-street parking areas for three or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley and so that any automobile may be parked and unparked without moving another.

**Planned Unit Development (PUD):** A proposal to the Development Review Board for a unique and innovative project to provide a different mixture, density and arrangement of residential, non-residential uses or both than otherwise possible under this bylaw (see also the Act, Section 4417 and section 2.8 herein). The project may include any combination of residential, commercial uses, industrial uses, recreational uses, education or community facilities or dwelling units in detached, semi-detached, or multi-storied structures.

**Plot Plan:** A development plan map showing, at an appropriate scale, all existing physical and man-made features, all property, easement and right of way lines, all proposed structure locations and land use alterations, and any other information as may be required to determine compliance with the provisions of these regulations.

**Principal Structure/Use:** A 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.

**Public or Semi-Public Use:** A building or other facility owned, leased, held, used, and/or controlled exclusively for public or semi-public purposes by a municipality, state or federal government, regulated utility or railroad. Such facilities included, but are not limited to municipal buildings and garages, water and wastewater facilities, and educational facilities; this definition includes uses in Section 4413(a) and Section 5.7.

**Public Water, Public Sewer:** Water supply and sewage disposal systems approved by the Selectboard for municipal operation.

**Recreation Facility** - Indoor: Includes indoor bowling alleys, theaters, table tennis and pool halls, skating rinks, gymnasiums, swimming pools, hobby workshops, and similar places of indoor commercial recreation. Outdoor: Includes golf courses, golf driving ranges, trap, skeet and archery ranges, swimming pools, skating rinks, tennis courts, riding stables, recreation stadiums, skiing, campgrounds, boys and girls camps and similar places of outdoor recreation.

**Recreational Vehicle:** See Camping Vehicle.

**Renewable Energy Resources:** Energy available for collection or conversion from direct sunlight, wind, running water, organically derived fuels including wood, agricultural sources, waste materials, waste heat, and geothermal sources.

**Residential Care Home:** A place, however named, excluding a licensed foster home, which provides, for profit or otherwise, room, board and personal care to at least three (3) but not more than eight (8) residents unrelated to the home operator who have a handicap or disability as defined in 9 V.S.A §4501.

**Screening:** A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

**Setback:** The distance between a structure and the right of way or lot line, measured horizontally from the foundation, exterior wall or roof supports (whichever is closer) to the particular feature (lot line, road right of way, watercourse, etc.).

**Setback, Rear Yard:** The distance between a structure and a rear lot line. The depth of the rear yard setback shall be measured at a 90 degree angle from the side lot line to the foundation, exterior wall, or roof supports of a structure (whichever is closer).

**Setback, Road:** The distance between a structure and the front lot line. The depth of the road setback shall be measured at a 90 degree angle from the front lot line to the foundation, exterior wall or roof supports of a structure (whichever is closer). Where a lot fronts on more than one public or private road right of ways, the road setback must be met for both.

**Setback, Side Yard:** The distance between a structure and a side lot line. The depth of the side yard setback shall be measured at a 90 degree angle from the side lot line to the foundation, exterior wall, or roof supports of a structure (whichever is closer).

**Sign:** Any device that can be viewed from the public right-of-way designed to inform, advertise, or attract attention to an object, person, institution, organization, business, product, service, event, or location.

**Small Business:** Any use of land or structures for the purpose of buying, selling, providing not for profit, storing, or warehousing goods or services where the following conditions apply:

- A) The goods, services, and/or business are predominantly contained inside a primary structure; and
- B) The space devoted to sales, service, storage, and/or business, including parking and loading is not more than 5,000 square feet.

*Examples of Small Business:* If they meet the space requirements in (B) above, retail shops, general stores, offices for the purpose of selling a professional or personal service, bank branches, lodging facilities, for profit or not for profit social service organizations, non-profit business, or indoor recreation facilities.



**Social Service Organization:** Establishment for profit or not for profit providing counseling, assistance, and/or aid for unemployment, learning disabilities, homelessness, substance abuse, physical or mental disabilities, or other similar conditions.

**Structure:** Anything constructed, erected, or placed that requires a fixed location on the ground in order to be used. Included in addition to buildings are signs, garages, carports, patios, walls, swimming pools any other outbuilding or building features. Not included are sidewalks, driveways, fences, planters and similar minor landscaping items.

**Subdivision, Major:** The division of one lot, tract, or parcel of land into four or more lots of record within a period of 5 years.

**Subdivision, Minor:** The division of one lot, tract, or parcel of land into not more than three lots of record within a period of 5 years.

**Use:** The specific purpose for which land or a building is arranged, designed, or intended, or for which land or a building may be occupied or intended.

**Wireless Communication Facility:** A tower, pole, antenna, guy wire, or related fixtures or equipment intended for use in connection with transmission or receipt of radio or television signals or any other electromagnetic spectrum-based transmissions/reception and for which a license is sought or has been granted by the FCC; the construction; or improvement of a road, trail, building, or structure incidental to a communications facility.

**Violation:** The failure of any land development or subdivision to be fully compliant with these regulations.

**Yard:** An open space on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in these regulations.

### **SECTION 7.3      DEFINITIONS FOR THE FLOOD HAZARD OVERLAY DISTRICT**

**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 floodplain). This area of special flood hazard is shown on the Flood Insurance Rate Maps (FIRM) and Floodway Maps (copies available at the Town Offices) as "Zones A2, A3, A4, and A6."

**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 subgrade (below ground level) on all sides.

**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/Land Development:** In the Flood Hazard Overlay District, 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.

**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 hazard areas and the risk premium zones applicable to the community.

**Flood Insurance Study:** An examination, evaluation and determination of flood hazards and, if appropriate, 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 water course 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.

**Historic Structure:** For the purposes of administering development in the Flood Hazard Area, 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:** For the purposes of administering development in the Flood Hazard Area, the lowest floor of the lowest enclosed area, including basement. 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 the purposes of administering development in the Flood Hazard Area, a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Manufactured Home Park or Subdivision, Existing:** For the purposes of administering development in the Flood Hazard Area, 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 floodplain management regulations adopted by a community.

**Manufactured Home Park or Subdivision, Expansion to:** For the purposes of administering development in the Flood Hazard Area, 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).

**Manufactured Home Park of Subdivision, New:** For the purposes of administering development in the Flood Hazard Area, 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.

**New Construction:** For the purposes of Flood Hazard Area Regulation and conformance with the NFIP, new construction means 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.

**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 land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated a Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the Flood Insurance Rate Map (FIRM), Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/AI-30, AR/AE, AR/AO, AR/AH, AR/A, VO or V1-30, VE, or V. For purposes of these regulations, the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard”.

**Start of Construction:** For the purposes of administering development in the Flood Hazard Area, any reconstruction, 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:** For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**Substantial Damage:** For the purposes of administering development in the Flood Hazard Area, 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:** For the purposes of administering development in the Flood Hazard Area, any reconstruction, rehabilitation, addition, alteration or other improvement of a structure after the date of adoption of this bylaw, the cost of which over three years, or over a 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 that have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either: 1) 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 state or local code enforcement official and which are the minimum necessary to ensure safe conditions, or 2) 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 any land development or subdivision to be fully compliant with the standards for the Flood Hazard Overlay District in Section 3.5. For a structure or other development in the Flood Hazard Area Overlay District without the elevation certificate, other certifications, or other evidence of compliance 12 required in 44 CFR 60.3, a violation shall be presumed until such time as that documentation is provided.