

**DEVELOPMENT  
REGULATIONS  
FOR THE  
TOWN OF FLETCHER, VT**

*ADOPTED ON MARCH 19, 2018*



## FLETCHER DEVELOPMENT REGULATIONS

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## **Article I. Authority and Purpose**

### **Section 1.1 - Enactment**

- (A) In accordance with the Vermont Municipal and Regional Planning and Development Act [24 V.S.A., Chapter 117], hereinafter referred to as “the Act,” there is hereby established the Development Regulations for the Town of Fletcher, Vermont. These regulations, upon adoption and while in effect, shall supersede in its entirety the previous Zoning Bylaw and Subdivision Bylaw. All permits issued under previous zoning and subdivision bylaws, including attached conditions, shall remain in effect.

### **Section 1.2 - Purpose**

- (A) It is the purpose of these regulations:

- (1) To encourage development that promotes the public health, safety, and general welfare of Fletcher’s residents;
- (2) To provide for orderly and efficient growth and development in accordance with the Fletcher Town Plan and all other bylaws and regulations enacted to implement the Plan;
- (3) To further the purposes of the Act [Section 4302];
- (4) To guide public policy to ensure the provision of adequate and efficient transportation, water, sewage, school, parks, playgrounds, recreation, and other public requirements and facilities;
- (5) To promote the conservation of energy or to permit the utilization of renewable energy resources;
- (6) To ensure that the rate of growth does not exceed the ability of the Town to provide public services and facilities, and that public facilities and services are available and will have sufficient capacity to serve any proposed subdivision;
- (7) To preserve rare and irreplaceable natural areas, and productive farmland through the proper arrangement and location of uses on parcels to be developed;
- (8) To provide the most efficient relationship between land use settlement patterns and the circulation of traffic throughout the Town; and to avoid undue traffic congestion and overburdening of roads;
- (9) To prevent the pollution of streams and ponds; to ensure the adequacy of drainage facilities; to safeguard ground and surface waters;
- (10) To minimize the fragmentation of productive resource lands, including farm and forestland, to ensure its continued use and availability for agriculture and forestry.

- (B) These regulations are based on surveys of existing conditions and probable future trends, with reasonable consideration given to the interests of the landowner; the Town and its residents; site conditions and physical limitations for development; and the suitability of uses in relationship to the character of particular zoning districts of the Town as defined herein, in accordance with the Fletcher Town Plan.

### **Section 1.3 - Applicability and Interpretation**

- (A) **Applicability:** These regulations apply to the division of any parcel of land into two (2) or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure or of any mining, excavation or landfill; and any change in the use of any building or other structure, or land, or extension of use of land, pursuant to the definition of “land development” in the Act [Section 4303(10)].

*In accordance with the Act [Section 4446], no land development shall commence within the jurisdiction of the Town of Fletcher except in compliance with the regulations and requirements of this bylaw.*

*Any land development not specifically authorized, unless otherwise exempted under Section 3.1(F) or the Act, is prohibited.*

- (B) **Interpretation:** In their interpretation and application, the provisions of these regulations shall be the minimum required. These regulations shall not repeal or otherwise impair other applicable regulations, permits or land use controls. However, where these regulations impose additional or more stringent restrictions, the provisions of these regulations shall apply.

### **Section 1.4 - Effective Date**

- (A) These regulations shall take effect in accordance with the requirements and procedures outlined in the Act [Section 4442].
- (B) In accordance with the Act [Section 4449(d)], beginning upon the date of public notice for the Fletcher Select Board final public hearing on adoption or amendment of a bylaw and ending upon a period of 150 days following that notice, the Zoning Administrator shall review any new application under the proposed bylaw or amendment, and applicable bylaws or ordinances.

### **Section 1.5 - Amendments**

- (A) These regulations may be amended in accordance with the requirements and procedures established in the Act [Sections 4442, 4443]. Mandatory requirements enacted by the state shall automatically become part of these regulations.

### **Section 1.6 - Severability**

- (A) If any portion of these regulations is held unconstitutional or invalid by a court of competent jurisdiction, the unaffected portions shall remain in force, and for this purpose the provisions of these regulations are severable.



## **Article II. Zoning District Provisions**

### **Section 2.1 - Establishment of Zoning Districts & Zoning Map**

(A) For the purposes of these regulations, the Town of Fletcher is divided into the following zoning districts as described in Section 2.4 below, and as shown on the Official Zoning Map:

- Village (VLG),
- Rural Residential / Agricultural (RUR),
- Conservation (CON),
- Forest (FOR), and
- Shoreland – Recreation (SHR)

In addition, the Flood Hazard Area Overlay District (FHAOD) has been established to protect public health and safety. The provisions of the Flood Hazard Area Overlay are to be applied concurrently with the provisions of the underlying districts(s).

(B) The location and boundaries of zoning districts are established as shown on the official “Town of Fletcher Zoning Map,” and associated Flood Hazard Area Overlay, both of which are declared to be part of these regulations, and may only be altered by adoption or amendment in accordance with the Act [Sections 4442, 4443]. The official zoning map, located in the Town Clerk’s Office and identified by the signatures of the Select Board, shall be the final authority as to the zoning status of any lands or waters in the Town, except for the Flood Hazard Overlay District which shall consist of the Special Flood Hazard Area in and 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.

### **Section 2.2 - Interpretation of Zoning District Boundaries**

(A) Where uncertainty exists as to the location of district boundaries shown on the official zoning map and overlay, the following rules shall apply:

- (1) Boundaries indicated as approximately following the centerlines of streams, roads, transportation and utility right-of-way shall be construed to follow such centerlines;
- (2) Boundaries indicated as approximately following property boundaries or platted lot lines shall be construed to follow such boundaries or lot lines;
- (3) Boundaries indicated as following shorelines shall be construed as the normal mean water level. In the event of change in the shoreline the boundary shall be construed as moving with the shoreline;
- (4) Boundaries indicated as parallel to or extensions of features under the above subsections shall be so construed. Boundaries indicated as lines perpendicular to lines or features under the above subsections shall be construed to be at right angles of such lines or features. Distances not specifically indicated shall be determined by the scale of the map;
- (5) The abandonment or relocation of rights-of-way or the change in a line or feature which references a district boundary line, after the effective date of these regulations, shall not affect the location of such

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boundary line, except as specifically noted under subsection (3).

- (B) When the Zoning Administrator cannot definitely determine the location of a district boundary from the scale or dimensions given on the official zoning map and associated overlays, or by the application of the above rules of interpretation, the Planning Commission shall be consulted prior to making a final determination. Any interpretation of zoning district boundaries by the Zoning Administrator may be appealed to the Development Review Board for a declaratory ruling under Section 9.8.
- (C) Where a district boundary divides a lot which existed on the effective date of these regulations, the Development Review Board may permit, as a conditional use under Section 3.2, the extension of the regulations for either portion of the lot for a distance not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.
- (D) Where a town boundary divides a lot, which existed on the effective date of these regulations, the standards of these regulations shall be applied to that portion of the lot that lies within the Town of Fletcher in the same manner as if the entire lot were situated therein.
- (E) Where a district boundary divides a newly created lot that did not exist on the effective date of these regulations, the requirements of the most restrictive district shall apply to the entire lot.

### **Section 2.3 - Application of District Standards**

- (A) All uses and structures must hereafter comply with all prescribed standards for the district in which they are located as set forth in Section 2.4 and the definitions given under Article X. Pre-existing nonconforming uses and non-conforming structures shall be regulated in accordance with Section 5.7. The standards for each district shall apply uniformly to each class of use and/or structure, unless otherwise specified in these regulations.
- (B) Overlay district standards shall be applied concurrently with the standards for the underlying district. Where the overlay district imposes more restrictive standards, the standards of the overlay district shall apply.

### **Section 2.4 - District Objectives, Uses and Standards**

#### **(A) District Objectives**

- (1) **Village District.** The Village District includes all lands within and adjacent to the historic settlements of Binghamville and Fletcher Center, as depicted on the Official Zoning Map. The purpose of this district is to support village areas as the focus of social and economic activities in the community, and to provide for residential, commercial and other compatible development that serves the needs of the Town. Such development should occur at densities and reflect uses which will maintain the traditional, social, and physical character of the villages, including their historic and scenic resources, and which will not exceed the capabilities of the Town's lands, waters, services and facilities to absorb such densities.
- (2) **Rural Residential/Agricultural District.** The Rural Residential/Agricultural District includes all lands (not in other zoning districts) that are within one thousand five hundred (1,500) feet of maintained (Class I, II, or III) public roads. The purpose of this district is to provide for and protect residential, agricultural, forestry and compatible commercial and recreational uses in accordance with the Town Plan. Development densities must be in keeping with the physical capabilities of the land and the availability of planned community facilities and services. Development methods that preserve the rural character and protect the agricultural resources of these areas are encouraged.

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- (3) **Conservation District.** The Conservation District includes all lands that are further than one thousand five hundred (1,500) feet from a maintained (Class I, II or III) public roadway, and are not in any other zoning district, as depicted on the Official Zoning Map. Most are remote upland areas and other conservation lands. Designation within this district is specifically intended to protect the scenic and natural resource value of these lands for forestry, ground and surface water recharge, wildlife habitat and outdoor recreation. Due to their remote locations, extreme topography and/or severe limitations for buildings, roads, utilities and sewage disposal, these areas of town are poorly suited for future community growth and development.

Due to an abundance of natural resources, physical limitations for development and the cost of providing public services to these areas, only limited, low-density land development that is compatible with this district's purpose will be permitted.

- (4) **Forest District.** The Forest District includes all lands one thousand one hundred (1,100) feet or more in elevation on Wintergreen Mountain, and all lands on Gilson Mountain one thousand four hundred (1,400) feet or more in elevation. This district includes the upland areas without roads on Fletcher Mountain and all lands east of Route 108, excluding the area within one thousand (1,000) feet of that road, which is in the Rural Residential / Agriculture District.

As provided by the Act [Section 4413], this district is established to protect remote lands that are essentially undeveloped, lack direct access to public roads, are critical wildlife habitat, are currently used for commercial forestry and/or have high potential for commercial forestry use, and have severe physical limitations for development. Because environmental considerations and potential expenses for community services make such areas unsuitable for most types of development, all but uses exempted by Statute shall be subject to conditional use review by the Development Review Board.

- (5) **Shoreland-Recreation District.** The Shoreland-Recreation District includes all lands within five hundred (500) feet of the shoreline of Metcalf and Halfmoon Ponds as depicted on the official zoning map. The purpose of this district is to protect those areas which have present or potential capability for water-based recreation, in accordance with the Act [Section 4414]. Development in this district must be carefully controlled to protect water quality and scenic beauty.
- (6) **Flood Hazard Area Overlay District.** The Flood Hazard Area Overlay District includes identified areas subject to a one percent (1%) or greater chance of flooding in any given year (i.e., 100-year flood plains) as depicted on the FEMA's current set of Flood Insurance Rate Maps (FIRMs) for the Town of Fletcher. The purpose of this district is to prevent increases in flooding caused by development in flood hazard areas, to minimize future public and private losses due to floods, and to promote public health, safety and welfare. Designation of this district is also required for continued Town eligibility in the National Flood Insurance Program. Applications for all land development located within the overlay district will be reviewed according to the standards contained in Article VIII.

(B) **Uses.** Land uses are set forth in Table 2.1 by Zoning District as allowable, prohibited, or exempt.

- (1) **Allowable Uses.** Allowable uses for each district are classified as “permitted” (P) or “conditional” (C), and shall be regulated as follows:
- a. Permitted uses and structures may be approved directly by the Zoning Administrator, except where approval from the Development Review Board is also required;
  - b. Conditional uses and structures may be approved only upon application to the Development Review Board for conditional use review under Section 3.2.

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- c. Both permitted and conditional uses may also be subject to additional standards contained in Articles V, VI, and VII.

- (2) **Uses Not Included in Table 2.1.** Any use not included in Table 2.1 shall be deemed prohibited unless specifically exempted under these regulations.. The Development Review Board via an appeal under Section 9.8 or via a conditional use application under Section 3.2, may approve a use not specifically listed in Table 2.1 only upon finding that, in addition to meeting the other specific and general standards set forth in these regulations, the proposed use also meets the following standards:

- a. such use is compatible with the character of the area as defined by the zoning district in which the use is being proposed.
- b. such use will not adversely affect adjoining properties and uses, or other uses within the District.

**Table 2.1 – Use Table**

	<b>Village District (VLG)</b>	<b>Rural Residential/Agri cultural District (RUR)</b>	<b>Conservat ion District (CON)</b>	<b>Forest District (FOR)</b>	<b>Shoreland-Recreation District (SHR)</b>
<b>Key: P (Permitted Use), C (Conditional Use), X (Prohibited), E (Exempt, No Zoning Permit Required)</b>					
<b>Residential Uses [1]</b>					
Camp/Seasonal Dwelling	X	P	C	X	C
Multi-Family Dwelling	C	X	X	X	X
Multi Family for Conversion of Pre Existing Structure	C	C	X	X	X
Single-family Dwelling[2]	P	P	P or C[3]	X	C
Two Family Dwelling	P	P	X	X	X
Conversion of Seasonal Dwelling to Single-family dwelling (see Section 5.2)	X	C	C	X	C
<b>Specific Uses</b>					
Accessory Dwelling (see Section 6.2)	P	P	P	X	P
Agricultural Housing; Single Family (see Section 6.3)	P	P	P	X	P
Agricultural Housing, Multi-Family (see Section 6.3)	C	C	C	X	C
Campground (see Section 6.5)	C [4]	C	C	C [5]	C
Cottage Industry (see Section 6.7)	C	C	C	X	C

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	<b>Village District (VLG)</b>	<b>Rural Residential/Agri cultural District (RUR)</b>	<b>Conservation District (CON)</b>	<b>Forest District (FOR)</b>	<b>Shoreland-Recreation District (SHR)</b>
Gasoline Station (see Section 6.6)[6]	C	X	X	X	X
Home Occupation (see Section 6.7)	P	P	P	X	P
Land Filling, Extraction and Quarrying Operation (see Section 6.13)	X	C	C	X	X
Light Industry (see Section 6.8)[6]	C	C	X	X	X
Mixed Use (see Section 6.9)	C	C	X	X	X
Mobile Home Park (see Section 6.10)	C	X	X	X	X
Public Facility (see Section 6.11)	C	C	C	C	C
Salvage Yard (see Section 6.12)	X	C	X	X	X
Telecommunications Facility (see Section 6.14)	X	X	C	X	X
<b>Other Uses</b>					
Accessory Uses and Structures	P	P	P	C	P[7]
Agribusiness	C	C	X	X	X
Bank	C	X	X	X	X
Bed & Breakfast	P	P	C	X	C
Boat Launch/Ramp/Permanent Dock [8]	X	X	X	X	C
Boat House (less than 400 square ft.) [8]	X	X	X	X	C
Cemetery	C	C	C	X	X
Club (Private, Service)	C	C	X	X	X
Community Care Facility	C	C	X	X	X
Contractor's Yard	X	C	X	X	X
Cultural Facility	C	X	X	X	X
Day Care Facility (more than 6 children)	C	C	X	X	X
Deck (detached, within shoreland setback area) [8]	X	X	X	X	C[9]
Equipment Supply and Rental	C	X	X	X	X
Health Clinic	C	X	X	X	X

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	<b>Village District (VLG)</b>	<b>Rural Residential/Agri cultural District (RUR)</b>	<b>Conservation District (CON)</b>	<b>Forest District (FOR)</b>	<b>Shoreland-Recreation District (SHR)</b>
Kennel	X	C	X	X	X
Lodging Establishments	C	C	X	X	X
Motor Vehicle Service and Repair	C	C	X	X	X
Office, Professional/Business	C	X	X	X	X
Recreation Facility, Indoor	C	C	X	X	X
Recreation Facility, Outdoor	C	C	C	C [10]	C
Restaurant	C	C	X	X	X
Retail Commercial	C	C	X	X	X
Sawmill/Lumber Yard	X	C	C	X	X
Service Commercial	C	X	X	X	X
Shoreline Stabilization Measures [8]	X	X	X	X	C
Storage Facility	X	C	X	X	X
Veterinary Clinic	C	C	X	X	X
<b>Key:</b> P (Permitted Use), C (Conditional Use), X (Prohibited), E (Exempt, No Zoning Permit Required)					
[1] Parking requirements for all residential uses shall be found in Section 7.2.					
[2] In accordance with the State statute [§4412(5)], a Child Care Home shall be considered by right to constitute a permitted single family residential use of the property. In accordance with the State statute [§4412(G)], a Group Home shall be considered by right to constitute a permitted single family residential use of property. Please refer to the definitions of Child Care Home and Group Home in Article X.					
[3] Single Family dwellings on lots that have received approval under these regulations by the Development Review Board are permitted uses. All other single family dwellings (e.g., dwellings on pre-existing lots as of the effective date of these regulations) are conditional uses.					
[4] Excludes primitive see Section 6.5					
[5] Limited to primitive camp sites.					
[6] The minimum lot size required for this use may be larger than the minimum lot size requirement in certain zoning districts.					
[7] Includes temporary docks and permanent stairs four (4) feet or less in width within the shoreland setback area.					
[8] Such uses and structures shall come under the jurisdiction of the Fletcher Development Regulations above the normal mean water level for any lake or pond. Such uses and structures may also be subject to Flood Hazard Review in accordance with Article VIII. Lastly, if such structures are located below normal mean water level they may also be subject to the jurisdiction of the Army Corps of Engineers and/or the Vermont Department of Environmental Conservation.					
[9] At least ten (10) feet from any structure.					
[10] Limited to trails.					

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- (C) **Density and Dimensional Requirements.** All structures and lots must meet the dimensional standards listed in Table 2.2, except when otherwise approved by the Development Review Board as a variance, waiver or a PUD application.

**Table 2.2: Density and Dimensional Requirements**

	<b>Village District (VLG)</b>	<b>Rural Residential/ Agricultural District (RUR)</b>	<b>Conservation District (CON)</b>	<b>Forest District (FOR)</b>	<b>Shoreland-Recreation District (SHR)</b>
<b>Minimum Lot Size:</b>	1 Acre	2 Acres	2 Acres	25 Acres	2 Acres
<b>Maximum Density [1]</b>	1 Unit per Acre	1 Unit per 2 Acres	1 units per 10 Acres	1 Unit per 25 Acres	1 Unit per 2 Acres
<b>Minimum Frontage:</b>	100 ft.	125 ft.	N/A	N/A	125 ft.
<b>Maximum Building Height:</b>	35 ft.	35 ft.	35 ft.	N/A	N/A
<b>Minimum Setbacks:</b>	25 ft.	25 ft.	50 ft.	N/A	25 ft.
<b>Minimum Lot Width or Depth:</b>	N/A	N/A	200 ft.	N/A	N/A
<b>Minimum Shoreline Frontage:</b>	N/A	N/A	N/A	N/A	100 ft.
<b>Minimum Shoreline Setback:</b>	N/A	N/A	N/A	N/A	40 ft.
<b>Accessory Structures Setback</b>	10 ft.	15 ft.	25 ft.	N/A	10 ft.
[1] When calculating overall density (yield) for the residential subdivision, all calculations shall be rounded down to the nearest whole number (Section 4.4[B]).					

- (1) There shall be only one principal structure and one principal use per lot, unless otherwise specifically approved as part of a Planned Unit Development under Section 3.3, or as a mixed use under Section 6.9.
- (2) No lot shall be so reduced in size that the area, setback, or other dimensions are smaller than those prescribed in these regulations, except as permitted for PUDs under Section 3.3 and subdivisions under Article IV.

### (D) District Standards

- (1) **Village District.** To preserve the character of the Village District, the following development standards will be applied and required under subdivision and/or conditional use review (Article IV and Section 3.2):
  - a. Development in the Village District shall maintain the village's historic settlement patterns. This shall be accomplished through the following standards:
    - i. Buildings shall be oriented to the road by having the front façade of a building face the road.
    - ii. Notwithstanding the minimum setback standards in sub-section (c) above, uniform building

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setbacks shall be maintained along the public right-of-way to the extent that topography allows.

- b. A main entrance shall be located on the front façade of the building. Pedestrian access shall be provided from the front entrance to the sidewalk, road right-of-way or to any off-street parking area. The Development Review Board may waive this requirement to allow for a side façade entrance to a building if the front façade of the building has window coverage in excess of 25%.
  - c. Front yards shall incorporate landscaping.
  - d. Parking areas shall be located to the rear or side of principal structures. Any drive-through lanes and drive-up windows shall be located in the rear or side of principal structures.
- (2) **Shoreland-Recreation District.** To protect water quality and minimize the effects of flooding, the following standards will be applied to all land development in the Shoreland-Recreation District:
- a. To protect water quality, and to minimize hazards associated with flooding, all development shall maintain a forty (40) foot setback area from the shoreline as an undisturbed vegetative buffer.. Some structures are exempt from this requirement [permanent docks, boat landings and ramps, decks and stairs greater than four (4) feet in width, boat houses four hundred (400) sq. ft. or less, retaining walls], yet are subject to conditional use review. The Development Review Board may only permit such a structure if it is found that the structure will not have an undue adverse impact on water quality.
  - b. No impervious surfaces, (concrete, asphalt, etc.) dredging or filling activities are permitted within this district, except as allowed under subsection (c).
  - c. Erosion control plans shall be required for any development within this district that is subject to subdivision review and/or conditional use review under Section 3.2 in order to control runoff and erosion during and following construction, and to protect water quality.
  - d. No conversion of seasonal dwellings to year-round use shall be permitted within the Shoreland-Recreation District except in accordance with conditional use review standards under Section 3.2 and conversion provisions under Section 5.2.
- (3) **Flood Hazard Area Overlay District.**
- a. All land development in the Flood Hazard Overlay District shall meet the standards in Article VIII.



## Article III. Development Review

### **Section 3.1 - Permits and Applications**

- (A) **Applicability.** In accordance with the Act [Section 4449], no land development as defined herein, unless specifically exempted under Article II and Section 3.1(F) of these regulations, shall commence without the landowner first obtaining all required permits under these regulations. No zoning permit shall be issued by the Zoning Administrator for any use or structure which requires the approval of the Development Review Board, Select Board, or other local official until all such approvals have been granted.
- (B) **Application Requirements.** A complete application for a zoning permit shall include all the applicable information requested on the Town of Fletcher Zoning Permit Application, including the application fee. zoning permit fees shall be in accordance with Section 9.4
- (C) **Public Notice and Issuance Requirements.** Public notice and issuance requirements must be met before a zoning permit may be issued according to Section 9.5.

#### **(D) Zoning Permit Requirements**

- (1) **Does the proposal require DRB review?** DRB approval is required for conditional uses (Section 3.2), PUDs (Section 3.3), subdivision (Article IV), and requests for variances (Section 9.9). Nonconformities shall comply with Section 5.7 and may require DRB approval. If one or more approvals from the DRB are required, such approval shall be obtained before applying for a zoning permit. The Zoning Administrator can aid an applicant in determining which DRB approvals may be needed.
- (2) **Does the proposal meet the zoning district use and dimensional standards?** Before issuing a zoning permit, the Zoning Administrator shall confirm that the use proposed is a permitted use according to Table 2.1 or has received Conditional Use Approval from the DRB. In addition, the Zoning Administrator shall confirm that the proposal conforms to the dimensional requirements, including setbacks, as listed in Table 2.2.
- (3) **Does the proposal meet the standards in Article V, Article VI, and Article VII?** Before issuing a zoning permit, the Zoning Administrator shall confirm that the proposal conforms to the decision and conditions imposed in the DRB approval (if one exists) and meets the standards in Article V, Article VI, and Article VII, as applicable.
- (4) **Has the proposal obtained all other required local permits or approvals?** Before issuing a zoning permit, the Zoning Administrator shall confirm that the proposal has obtained all required local permits and approvals, including but not limited to approval for a curb cut on a town highway (access permit), conformance with municipal road ordinances, and any other required permits or approvals as outlined in Section 9.5. If applicable, the Zoning Administrator shall also require that a notice to issue a state highway access permit is obtained from VTrans before issuing a zoning permit.

#### **(E) Expiration**

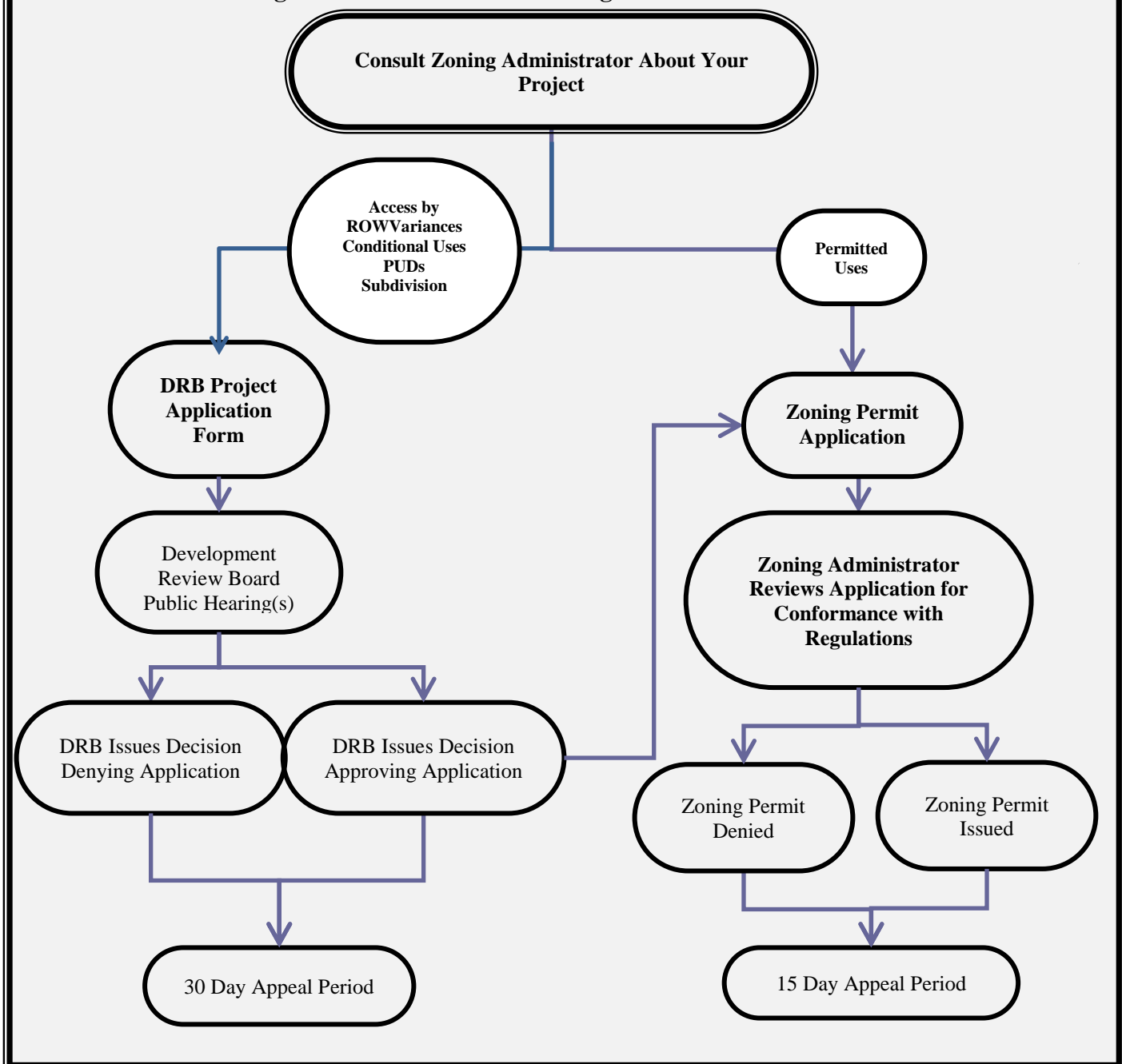
- (1) Issued zoning permits shall be effective for a period of two (2) years.
- (2) If a minimum of fifty percent (50%) of permitted land development is not complete within two (2) years of a zoning permit being issued, a zoning permit shall expire and shall become null and void.

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Reapplication and approval of a zoning permit shall be required before land development can recommence. The expiration of a zoning permit under this section shall include the expiration of all other approvals granted in association with the permit, including but not limited to conditional use approval.

- (3) Any zoning permit issued based upon material inaccuracies or misrepresentation in an application or in any supporting documentation to an application shall be null and void, and shall not be construed as waiving any provision of these regulations. At a minimum, reapplication to complete and/or continue any activities shall be required.

**Figure 3.1 - How to Get a Zoning Permit: At a Glance**



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(F) **Exemptions.** No zoning permit shall be required from the Zoning Administrator for the following types of land development:

(1) **State Exemptions.**

- a. Accepted agricultural practices (AAPs) and best management practices (BMPs), including farm structures, as defined by the Commissioner of Agriculture, Food and Markets in accordance with the Act [Section 4413(d)]; pursuant to Accepted Agricultural Practice Rules as most recently amended:
  - i. Prior to the construction of farm structures, the farmer must notify the Zoning Administrator in writing of the proposed construction activity. The notification must contain a sketch of the proposed structure including the setbacks from adjoining property lines and road rights-of-way.
  - ii. Local setbacks established by the municipality shall be maintained unless, upon written petition by the farmer, the Commissioner of Agriculture, Food and Markets has approved other reasonable setbacks for the specific farm structure being constructed or maintained. Such approval shall be attached to the notification filed with the Zoning Administrator.
  - iii. All farm structures within the Flood Hazard Area Overlay (see Article II) shall be constructed and maintained in accordance with the requirements of the rules established by the Vermont Agency of Natural Resources.
  - iv. Violations of Accepted Agricultural Practice Rules may be reported by the municipality to the Commission of Agriculture, Food and Markets for enforcement.
- b. Accepted Management Practices (AMPs) for Forestry, as defined by the Commissioner of Forests, Parks and Recreation, pursuant to the Act [Section 4413(d)].
- c. Public utility power generating plants and transmission facilities that are regulated by the Vermont Public Utility Commission under 30 V.S.A. §248, including wind generation facilities and solar generation facilities, and telecommunications facilities that are regulated by the Vermont Public Utility Commission under 30 V.S.A. §248a.

(2) **Local Exemptions.**

- a. Modifications of building interiors if no change of use is proposed; repairs and minor alterations (including but not limited to chimneys, re-roofing or re-siding) to existing structures not resulting in any change to the exterior dimensions or height of the structure.
- b. Any residential fence or wall less than six (6) feet in height which does not extend into or obstruct public rights-of-way, or interfere with corner visibility or site distances for vehicular traffic.
- c. Residential entrance stairs, handicap ramps, and sidewalks.
- d. Any accessory structure such as dog house, child's play house, tree house, shed or similar structure with a floor area of one hundred (100) square feet or less, which is located in a side or rear yard at least five (5) feet from all property lines. This exemption shall not be applicable to accessory structures in the Shoreland District.

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- e. Signs specifically exempted in Section 5.12.
  - f. One two hundred (200) sq. ft. primitive shelter on minimum twenty-five (25) acre lot in the Conservation District with a minimum setback of two hundred (200) feet from all property lines.
  - g. Garage sales, yard sales, auctions or similar types of sale for a period of not exceeding three (3) consecutive days, nor more than eight (8) days per calendar year, which are managed so as not to create hazards, traffic conditions, parking problems, or other nuisances to neighbors.
  - h. Temporary docks or floats.
  - i. The stabilization of damaged structures to prevent imminent hazards to public health and safety, and to adjoining properties; nor for the repair, restoration or reconstruction of damaged structures to the extent of their prior condition and use per Section 5.3.
  - j. Gardening, excavations in cemeteries, and the removal or extraction of topsoil, rock, sand, gravel or other similar material in connection with the construction of a structure or other allowed use,
- (G) **Certificate of Occupancy.** All projects that require a zoning permit shall also be required to receive a Certificate of Occupancy which documents that all work has been completed in accordance with the zoning permit. See Section 9.5(F).

### **Section 3.2 - Conditional Use Review and Standards**

- (A) **Applicability:** Any use or structure requiring conditional use approval according to Table 2.1 shall not be issued a zoning permit by the Zoning Administrator until the Development Review Board grants such approval in accordance with the Act [Section 3312(3)], and the standards set forth in this section.
- (B) **Application:** An application for conditional use review, associated fee, and a site development plan prepared in accordance with subsection (C) below, shall be submitted to the Zoning Administrator for consideration. The application shall not be considered complete until all of the application materials listed or requested under Subsection (C) have been submitted. The Development Review Board may modify or waive any of the application requirements under Subsection (C) in the event they determine the item(s) to be unnecessary for the comprehensive review of the application. Such waiver shall be made at the time that the application is accepted and deemed complete.
- (C) **Site Development Plan:** An applicant for conditional use approval shall submit one (1) original, full sized (36 x 48) copy and six (6) reduced sized (11 x 17) copies of the complete site development plan, to include the following:
- (1) The name and address of owner(s) of record of the property; name, address and interest of the applicant, if different than the owner(s) of record; name and address of the person or firm preparing the application and related plans; date of the application and related plans; names and addresses of all owners of adjoining lands.
  - (2) A plan drawn to scale, prepared by a licensed engineer, surveyor, land planner or as otherwise approved by the Development Review Board, which includes the following elements listed below:
    - a. North arrow and scale;
    - b. Legal boundaries for the property;

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- c. Proposed property boundaries, including internal lot lines;
  - d. Zoning district boundaries;
  - e. Location of existing and proposed features, to include primary conservation resources, secondary conservation resources, and historic sites; structures (building footprints); walls and fence lines; parking areas, roads, driveways, easements and rights-of-way, and utilities;
  - f. Traffic and pedestrian circulation within the site, location of loading areas, access to neighboring properties, and roads, sidewalks, pathways and trails in the vicinity; and
  - g. Proposed landscaping, screening, grading, stormwater management, sign and lighting details.
- (3) Site location map showing the location of the project in relation to nearby town highways, and adjoining parcels and uses.
- (4) In addition, the Development Review Board may, upon preliminary review of the application, require additional information that it deems necessary to determine whether the proposed use or structure meets the applicable standards. Such information may include but is not limited to:
- a. Photographs of the site.
  - b. Phasing schedule for completion of all proposed development and site improvements.
  - c. An estimate of traffic to be generated by the project and the impact of such traffic on area roads.
  - d. The location of natural features or site elements to be preserved as open space or to be held in common and the method for protecting those features or elements.
  - e. Additional studies or data relative to the project's impact on the community, such as setbacks, stormwater management and erosion control plans, visual impact analysis, traffic impact analysis, biological impact report, or community service impact assessments.
  - f. Preliminary building elevations for new or altered structures, including an indication of the exterior façade design, window treatment and roof and siding materials.
- (D) **Review Procedure:** Upon submission of an application to the Zoning Administrator, the Development Review Board shall schedule a public hearing, warned in accordance with Section 9.6, to consider the application. If, the Development Review Board determines that the application is not complete, and/or that additional information or materials are required to consider the proposed use, the hearing shall be recessed to a later date to allow the applicant time to provide the necessary information.
- In accordance with the Act [Section 4464], the Board shall act to approve, approve with conditions, or deny any application for conditional use review within forty-five (45) days after the date of the final public hearing, and shall issue a written decision, to include findings, any conditions, and provisions for appeal. Failure to act within forty-five (45) days shall be deemed approval. In approving a project with conditions, the Board may require specific modifications to the scale, layout and/or design of the project, or place restrictions on its operation and/or intensity to ensure compliance with this Section.
- (E) **General Standards:** In accordance with the Act [Section 4412(3)], conditional use approval shall be granted by the Development Review Board upon its determination that the proposed use or structure will not have an undue adverse effect (see Figure 3.2) on the following standards:

- (1) **The capacity of existing or planned community facilities or services:** The Board shall consider the incremental demand for community services and facilities which will result from the proposed development, and determine whether that demand will exceed the existing or planned capacity of existing facilities or services. In making such a determination, the Board will consider any capital program or budget in effect at the time of application. Conditions may be imposed regarding the timing and phasing of development to minimize the impact on schools and other community facilities and services.
- (2) **The character of the neighborhood area, or district affected:** The Development Review Board shall consider the character of the area as defined by the purpose or purposes 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:** The Development Review Board shall consider the projected impact of traffic resulting from the proposed development on the capacity, safety, efficiency and use of affected roads, bridges, and intersections. The Development Review Board will depend on accepted transportation standards in evaluating traffic impacts. The Development Review Board shall also ensure that adequate provision is made for the long-term, ongoing maintenance of roads, including private development roads and shared driveways through the existence of a road maintenance agreement, private association or comparable mechanism.
- (4) **Other Town of Fletcher bylaws in effect:** The conditional use must comply with all bylaws and regulations at the time of submission of the application.

### **Figure 3.2 - Determining Undue Adverse Effect**

The following test shall be used by the DRB when the bylaw requires the DRB to determine whether or not an undue adverse effect is being created.

1. First, the DRB shall determine if a project is creating an adverse effect upon the resource, issue and/or facility in question. The DRB shall determine such by responding to the following question:

- a) Does the project have an unfavorable impact upon the resource, issue and/or facility in question?

2. If it has been determined by the DRB that an adverse effect is being created by a project, the DRB shall then determine if the adverse effect is undue. To determine whether or not an adverse effect is undue, the DRB shall respond to the following two questions:

- a) Does the project conflict with a clear, written standard in these Regulations or the Municipal Plan applicable to the resource, issue or facility in question?
- b) Can the unfavorable impact be avoided through site or design modifications, or mitigation, or other conditions of approval?

The DRB shall conclude that adverse effect is “undue” if the answer to 2(a) is YES **OR** the answer to 2(b) is NO.

- (5) **The utilization of renewable energy resources:** The Development Review Board shall consider

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whether the proposed development will interfere with the sustainable use of renewable energy resources, either through the use of such resources or from the proposed project's impact on the future availability of such resources.

**(F) Specific Standards:** In addition to the General Standards set forth in subsection 3.2(E) above, the Development Review Board may require specific conditions or modifications to the project to ensure the following:

- (1) The proposed development conforms to all applicable zoning district standards and general provisions set forth in Articles II, V, VI and VII of these regulations.
- (2) The storage or display of outside materials, goods, supplies, inoperative or unlicensed vehicles, machinery or other materials shall be prohibited unless specifically approved by the Board. Secured, covered areas shall be provided for the collection and on-site storage of trash and recyclables generated by the proposed development. In approving such outdoor display or storage, the Board may place conditions on the area and location of such storage or display, and may require appropriate screening.
- (3) Proposed landscaping shall enhance the features and conditions unique to each site. Landscaping may be required in front and side yards, adjacent to parking areas, where rear yards abut to residential properties or public roads, or where otherwise deemed necessary to provide adequate buffering and screening. Bonding or other surety also may be required to ensure installation and maintenance of all proposed landscaping, for a three (3) year period.

### **Section 3.3 - Planned Unit Developments (PUDs) Review and Standards**

**(A) Purpose:** In accordance with the Act [Section 4417], and the standards in this section, Planned Unit Developments (PUDs) may be permitted subject to DRB approval.

The purpose of this provision is to encourage flexibility of design and the development of lands in such a manner as to promote the most appropriate use of land, to facilitate adequate and economic provision of roads and utilities, to encourage energy efficient construction, to promote the clustering of development to preserve and maintain agricultural land, open space and Primary and Secondary Conservation Resources.

**(B) Applicability:** Planned Unit Development provisions may be applied at the request of the applicant to any size parcel; and may be required by the DRB for any subdivision creating five (5) or more building lots. All Planned Unit Developments shall be reviewed as major subdivisions.

**(C) Application Requirements:** In addition to submission requirements under the Fletcher Subdivision Regulations, Planned Unit Development applications shall include the following:

- (1) A statement describing the nature and reason for any part of the PUD design that does not correspond with or is not expressly permitted by these Regulations in accordance with (E) below.
- (2) Any other supporting information that the DRB deems necessary to determine whether the proposed Planned Unit Development meets applicable standards.
- (3) Applications for Planned Unit Developments of designated conditional uses shall include the information set forth in Section 3.2.

**(D) Review Procedures:** Planned Unit Developments shall be reviewed under this section and Article IV – Subdivision Review as a major subdivision. Where Conditional Use review is required, it shall be coordinated to the extent feasible in accordance with Section 9.6(c).

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(E) **Modifications:** The DRB may authorize lot size, density and dimensional requirements that do not correspond with or are not otherwise expressly permitted by these Regulations for the area in which a planned unit development is located with respect to any of the following:

- (1) The location and physical characteristics of the proposed planned unit development.
- (2) The location and design of the lots and structures proposed.
- (3) The amount, location, and proposed use of open space.

(F) **General Standards:** Planned Unit Developments, including any proposed modification of the development regulations per subsection (E) above, shall be subject to the following general conditions and standards:

- (1) The Planned Unit Development will meet all applicable standards set forth in Article IV – Subdivision Review.
- (2) The Planned Unit Development shall be consistent with the Fletcher Town Plan and compliant with all other applicable regulations and ordinances in effect.
- (3) The Planned Unit Development shall be an effective and unified treatment of the development possibilities of the project site, making appropriate provision for Primary and Secondary Conservation Resources.
- (4) Uses may include those permitted and/or conditional uses allowed within the district where the project is proposed. Uses allowed within the Planned Unit Development shall not be modified.
- (5) Two (2) or more contiguous parcels under the ownership or control of the applicant may be combined for review as a Planned Unit Development. The permitted density on one parcel may be increased as long as the overall density for the combined parcels does not exceed that which could be permitted if the land were subdivided into lots in conformance with district regulations.
- (6) All dimensional requirements of the Planned Unit Development shall be those dictated for the particular district unless otherwise approved by the Development Review Board in accordance with (E) above. Maximum density cannot be modified except in conformance with subsection (G) below.
- (7) Mixed uses shall be arranged to be compatible to ensure that no one use shall have an undue adverse effect upon another use within the Planned Unit Development. Incompatible uses shall be buffered as appropriate to ensure visual and acoustical privacy for the residents of the development and for adjacent properties.
- (8) Dwelling units permitted may, at the discretion of the Development Review Board, be of varied types, including, single-family, two-family, or multi-family construction, and may be attached or detached and shall be compliant with subsection (4) above.

(G) **Density and Bonus Density:** Planned Unit Developments are subject to the following regulations in regards to density and bonus density:

The total number of dwelling units within a Planned Unit Development shall not exceed the maximum density for a zoning district as outlined in Section 2.4(C) The number of dwelling units



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allowed in a Planned Unit Development may be increased by up to twenty-five (25%) percent if the Development Review Board determines that the site could sustain the increase in density while conforming to all other zoning district requirements. Said density increase, as set forth above, shall be granted only for developments that provide elderly and/or affordable housing, and which advance the objectives for housing as set forth in the Town Plan.

(H) **Preservation of Open Space.** Provision shall be made for the preservation of open space. The location and shape of lands set aside to be preserved for open space shall be approved by the DRB, in accordance with the following:

- (1) Open space shall consist of areas reserved for agricultural, forestry, outdoor recreation facilities (only non-commercial uses), and/or conservation uses. The uses permitted within open space shall be specifically identified as a part of the approval of all PUDs. Structures shall not be permitted on open space unless associated with approved uses.
- (2) Open space shall be protected by appropriate legal devices to ensure the continued protection of the area. Appropriate legal devices include, conservation easements, homeowners associations, restrictive covenants, conveyance to land trusts, or other appropriate grants or restrictions approved by the Development Review Board.
- (3) The location, shape, and character of the open space shall be suitable for its intended use. The size of open space required within a PUD is subject to the following requirements:

<b>Table 3.1 – Required Open Space for PUDs</b>	
<b>Zoning District</b>	<b>Percent of Land in Open Space</b>
Village and Shoreland-Recreation	25%
Rural Residential/Agricultural	40%
Conservation	50%

For PUDs occurring in two zoning districts, the figures noted in the Table 3.1 shall be used for the purposes of calculating the total open space necessary for the PUD, which shall be calculated based on these specifications for the portions of land occurring in each district; any portion of the open space may occur within either zoning district with the approval of the Development Review Board.

- (4) Areas used for either community or individual wells or wastewater systems shall not be included in the calculation of open space area even if located on common land.
  - (5) Open space land shall include and provide for the protection of identified Primary and Secondary Conservation Resources in compliance with Section 5.11 and Section 7.3, if such resources exist on the parcel on which a PUD is being created.
  - (6) Open space land should, be located so as to conform with and extend existing and potential open space lands on adjacent parcels.
- (I) **Creation of Common Land.** The applicant shall propose appropriate ownership arrangements and/or covenants to title for the purpose of the preservation and maintenance of any designated common land including open space, road and trail rights-of-way, and shared facilities, such as community wastewater systems, community water supplies, recreation or community facilities. All properties within a PUD shall have access to any common land created as a part of the PUD approval.



## Article IV. Subdivision Review

### Section 4.1 - Applicability

- (A) **Applicability.** This Article shall apply to the subdivision of any tract of land into two (2) or more total lots, boundary line adjustments, and Planned Unit Developments per Section 3.3.
- (B) **Types of Subdivisions.** All subdivisions shall be categorized as one of three types of application: Any property that has been created as a part of a minor subdivision application shall not be included in another application for a minor subdivision during the following two year period. For further clarity on the types of subdivisions, please see the definitions in Article X.

### Section 4.2 - Application Requirements

- (A) **Applications.** For all subdivisions (including boundary adjustments), the applicant shall submit one (1) original, full sized (36 x 48) copy and six (6) reduced (11 x 17) copies of all required plans and/or plats. The DRB may request additional copies. All applications shall comply with the requirements in Table 4.1. A brief written narrative describing the proposed subdivision and its conformance with these regulations and the goals and policies of the Fletcher Town Plan shall be submitted with all subdivision applications.
- (B) **Modifications.** The DRB may waive or modify application submission requirements upon written request by the applicant if the DRB judges that the application submission requirements are not requisite in the interest of the public health, safety, and general welfare, or are inappropriate both in the short and long term. No request shall be granted if it would have the effect of nullifying the intent and purpose of the Town Plan or the Fletcher Development Regulations.

#### **Figure 4.1 - Plan and Survey Plat Specifications**

**Sketch Plans.** An informal sketch of the proposed subdivision, the purpose of which is to enable the Subdivider to save time and expense in reaching general agreement with the DRB on the design of the subdivision and objectives and requirements of these regulations. Sketch plans shall include basic information as required in Table 4.1 and may be hand drawn.

**Plot Plans.** A plot plan is a detailed illustration of the proposed subdivision, which may be one sheet or many sheets as necessary to make the information clear and legible. Plot plans shall be drawn to scale and include detailed information as required in Table 4.1.

**Survey Plat.** A map surveyed to scale on Mylar by a licensed land surveyor for filing in the Town's land records. It shall clearly depict one or more parcels, tracts or subdivisions of land, showing, but not limited to, boundaries, corners, markers, monuments, easements and other rights. Survey Plats shall be prepared according to Section 4.4(A) and 27 V.S.A .Chapter 17.

**Table 4.1 - Subdivision Sketch Plan/Plot Plan Requirements**

<p>✓ – the item is required NA – the item is not required</p>	Boundary Adjustment	Minor Subdivision – Plot Plan Review	Major Subdivision - Sketch Plan Review	Major Subdivision - Preliminary Plot Plan Review	Major Subdivision - Final Plot Plan Review
<i>Note: Information required in this Table may be prepared on 1 or more sheets, as necessary to make the information clear and legible.</i>					
Required Plan	Survey Plat	Plot Plan	Sketch Plan	Plot Plan	Plot Plan
<b>Location Map</b> - showing the project location in the context of the whole town	✓	✓	✓	✓	✓
<b>Title Block</b> – including the following information:	✓	✓	✓	✓	✓
Project Title	✓	✓	✓	✓	✓
Plan Title (Overall site plan, utilities, stormwater, etc)	✓	✓	✓	✓	✓
Location Description	✓	✓	✓	✓	✓
Site Address	✓	✓	✓	✓	✓
Name of Landowner	✓	✓	✓	✓	✓
Name of Developer/Client (If different than landowner)	✓	✓	✓	✓	✓
Scale	✓	✓	✓ Approx	✓	✓
Name, Title, License Number, and Stamp of Surveyor, VT Licensed Engineer, Architect, or Landscape Architect who prepared the plan (if applicable)	✓	✓	NA	✓	✓
<b>North Arrow</b>	✓	✓	✓	✓	✓
<b>Date</b> of preparation and record of any revisions	✓	✓	✓	✓	✓
<b>Relevant Planning and Zoning Information</b> , including zoning district, density analysis (how many lots/units allowed according to zoning standards), setbacks, parking standards, etc.	✓	✓	✓	✓	✓
<b>Area of land</b> in square feet or acres for each tract, lot, structure, and large feature.	✓	✓	✓ Approx.	✓	✓
<b>Contour lines</b> at intervals of 5 feet (unless waived or modified by DRB)	NA	NA	NA	✓	✓

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<p>✓ – the item is required NA – the item is not required</p>	Boundary Adjustment	Minor Subdivision – Plot Plan Review	Major Subdivision – Sketch Plan Review	Major Subdivision - Preliminary Plot Plan Review	Major Subdivision - Final Plot Plan Review
<p><b>Lot and tract identification</b> – boundaries for entire tract, lot lines for each existing and proposed lot, and for any involved land (access roads, easements, rights-of-way, and any open space or mitigation land). Existing and proposed lots should be differentiated. Each lot should be given a number for reference.</p> <p><b>Property Boundary Survey Signed and Stamped by Licensed Land Surveyor</b> – Property boundary surveys are required for all new subdivided lots. Property boundary surveys are required for the entire parent parcel (original lot from which lots are subdivided) when:</p> <p>-it is 10 acres or less in size, and/or -greater than 50% of acreage is subdivided into lots</p>	✓	✓	✓ Approx.	✓	✓
<p><b>Adjacent property and owners</b> – all adjacent lands should be labeled with the name of the property owner(s).</p>	✓	✓	✓	✓	✓
<p><b>Existing features</b> (i.e. non-portable features of the landscape) – Streams, ponds, and wetlands; structures, foundations, and old cellar holes; wells, springs, and septic systems; stone walls and fence lines; forest boundaries, fields, large trees, and rock outcroppings; transportation and utility infrastructure like roads, sidewalks, and power lines; and any other existing features.</p> <p><b>The proposed project</b> – (i.e. all improvements planned for one or more related sites and which fall under the purview of these Regulations) – All proposed buildings, roads, driveways and parking areas, landscaping, utilities, signs, dumpsters, tanks, lights, water supplies, and septic systems.</p> <p><b>Mitigation measures</b> – Any stream or wetland buffers, or agricultural or wildlife habitat easements, or other areas required to be set aside for preservation/conservation.</p> <p><b>Off-site Improvements</b> that may be required locally or by the state, such as improvements that mitigate traffic impacts like a turning lane, or construction, buffers, landscaping or other mitigation within an adjacent easement or leased area.</p> <p><b>Building envelopes, reserve areas, and open space (if any).</b> “Building envelopes” delineate the general area development is proposed. “Reserve areas” are those set aside for future development or expansion. “Open space” is any area set aside to satisfy the open space requirement for PUD approval.</p>	<p>✓</p> <p>NA</p> <p>✓</p> <p>NA</p> <p>NA</p>	<p>✓</p> <p>✓</p> <p>✓</p> <p>NA</p> <p>As Required</p>	<p>✓ Approx.</p> <p>✓ Approx.</p> <p>✓ Approx.</p> <p>✓ Approx.</p> <p>✓ Approx.</p>	<p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p>	<p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p>

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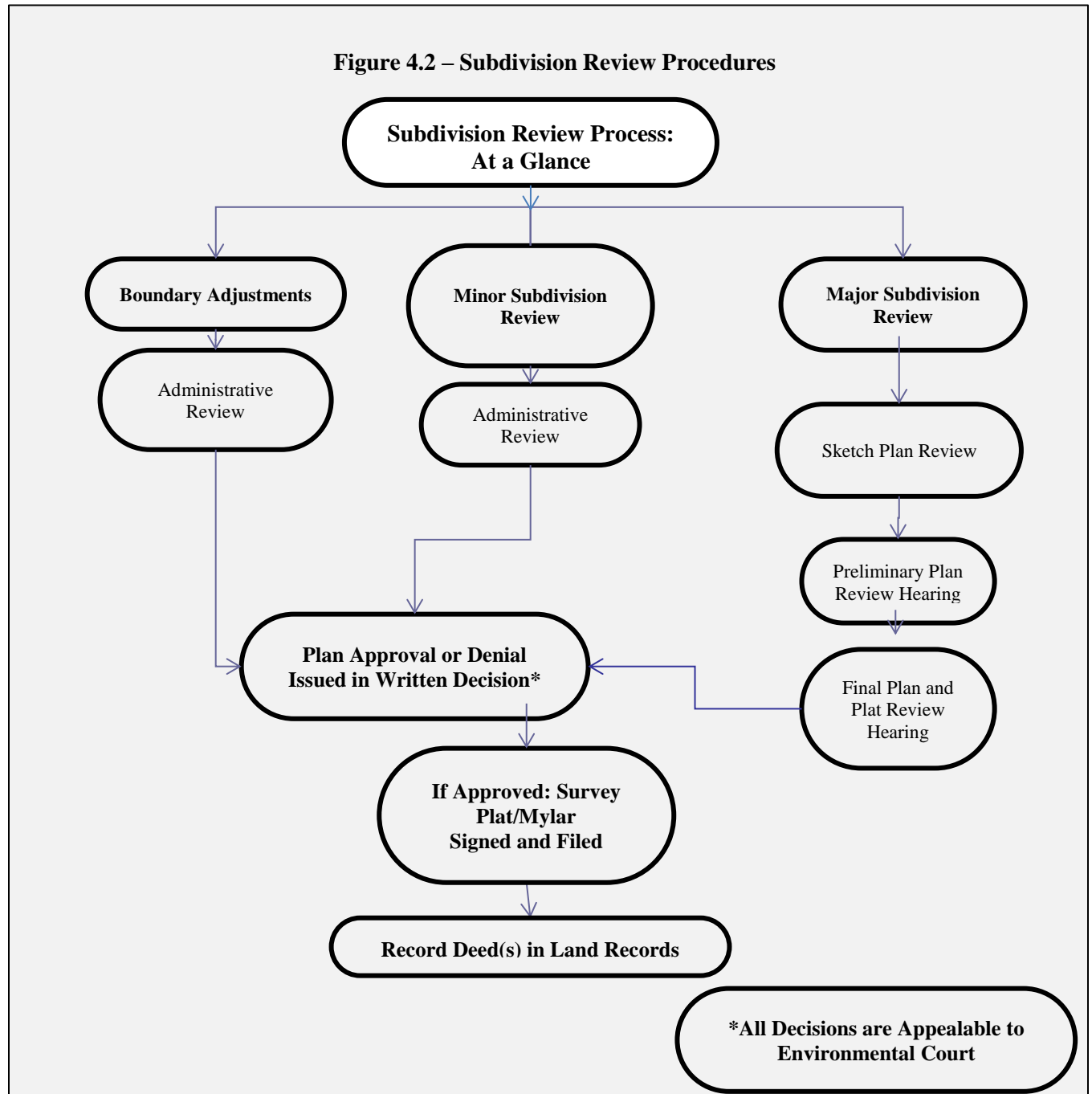
<p>✓ – the item is required NA – the item is not required</p>	Boundary Adjustment	Minor Subdivision – Plot Plan Review	Major Subdivision – Sketch Plan Review	Major Subdivision - Preliminary Plot Plan Review	Major Subdivision - Final Plot Plan Review
Public rights-of-way and easements	✓	✓	✓ Approx	✓	✓
<b>Specialized Plans/Plats</b>					
<b>Utility Plan</b> – Location of water and sewer improvements and easements, including force-mains, pump stations, and underground electric and telephone lines. (Section 4.4[d]).	NA	✓	NA	✓	✓
<b>Erosion and Sediment Control Plan</b> – Locations where sediment must be trapped before entering a watercourse and the devices used to impede erosion (i.e. silt fencing, hay-bale or stone dams around catch basins and at intervals in swales and ditches). (Section 7.5[B])	NA	As Required	NA	✓	✓
<b>Stormwater Management Plan</b> – Detail on collection, retention, and treatment of stormwater. Should show site grades, direction of drainage flow, and design of any detention basins. (Section 4.4[B][3] and Section 7.6)	NA	✓	NA	✓	✓
<b>Road and Bike/Pedestrian Plan</b> – Current and proposed grades for the installation of roads, bridges, driveways, sidewalks, bike lanes, and other pedestrian amenities. Should show cross sections of proposed roads and sidewalks. (Section 7.4)	NA	As Required	NA	✓	✓
<b>Landscaping Plan</b> – Locations for existing and proposed vegetation, as well as structures, features, and other topographical information. Scientific and common names for proposed species should be identified. Areas proposed for clearing and no-cut zones should be identified. (Section 4.4[B][6]).	NA	As Required	NA	✓	✓
<b>Lighting and Signage Plan</b> – Locations and illumination of exterior lights. Location and dimensions of all exterior signs. (Section 4.4[B][7] and Section 5.9).	NA	NA	NA	As Required	✓
<b>Garbage Collection Plan</b> – Location for garbage collection and method for containing garbage put out for pick-up.	NA	NA	NA	As Required	As Required
<b>Architectural elevations</b> for commercial and multi-family residential buildings – Renderings of the project’s physical appearance as seen from the east, west, north, and south viewpoints.	NA	✓	NA	✓	✓
<b>Transportation Impact Study</b> – A report analyzing anticipated roadway conditions with and without the proposed project. The report may include an analysis of mitigation measures and a calculation of fair share financial contributions. (Section 4.4[C])	NA	NA	NA	NA	As Required

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<p>✓ – the item is required NA – the item is not required</p>	Boundary Adjustment	Minor Subdivision – Plot Plan Review	Major Subdivision - Sketch Plan Review	Major Subdivision - Preliminary Plot Plan Review	Major Subdivision - Final Plot Plan Review
<b>Master Plan</b> - an indication of proposed roads, driveways or streets, the future probable lot lines and building envelopes of the remaining portion of the tract, and a description of the probable uses (drawn in sketch plan format).	NA	NA	NA	As Required	As Required
<b>Legal Documents</b> – A draft of all newly created or revised deeds, covenants, or other legal documents associated with the proposed development.	✓	✓	NA	As Required	✓
<b>Modifications</b> – A written request for modifications from application requirements (or dimensional requirements for PUDs).	✓	✓	✓	✓	NA
<b>Engineer's Certificate</b> – A certificate from a consulting engineer, approved by the Selectboard, as to the satisfactory completion of all improvements required by the DRB, or in lieu thereof, a performance bond or equivalent surety to secure completion of such improvements and their maintenance for a period of two years, with a certificate from the Selectboard that it is satisfied with either the bonding or surety company, or with security furnished by the applicant.	NA	NA	NA	NA	As Required

### **Section 4.3 - Review Procedures**

(A) **Overview.** Detailed review process requirements for boundary adjustments, minor subdivisions, and major subdivisions are included in this Section. The subdivision review process differs by subdivision type. See Figure 4.2 below for an overview:



(B) **Boundary Adjustments.** A Boundary Adjustment is the adjustment of property lines between adjacent lots, which:



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- does not create any new lots or merge any lots;
- does not create any non-conforming lots;
- does not impact access to any parcel.

(1) **Administrative Review.** Upon submission of a complete application for a boundary adjustment between two or more properties, proper payment of fees, and submission of all required supporting documentation the following actions shall occur:

- a. The Zoning Administrator shall conduct an administrative review of the proposed boundary adjustment. The Zoning Administrator shall determine if the proposal meets all the applicable requirements of these Regulations. The Zoning Administrator shall then issue a written decision for the approval or denial of the boundary adjustment in accordance with Section 9.7. If approved, the applicant shall file the Survey Plat in accordance with [Section 4.3\(G\)](#).

(C) **Minor Subdivisions.** Minor subdivisions are subdivisions involving the creation of two (2) lots.

(1) **Administrative Review.** Upon submission of a complete application for a minor subdivision, proper payment of fees, and submission of all required supporting documentation the following actions shall occur:

- a. The Zoning Administrator shall conduct an administrative review of the proposed minor subdivision. The Zoning Administrator shall determine if the proposal meets all the applicable requirements of these Regulations. The Zoning Administrator shall then issue a written decision for the approval or denial of the minor amendment in accordance with Section 9.7. If approved, the applicant shall file the Survey Plat in accordance with [Section 4.3\(G\)](#).

**Major Subdivisions - Sketch Plan Review.** All major subdivisions shall require Sketch Plan Review by the DRB according to this Section.

(1) **Initial Meeting.** Upon receipt of a complete sketch plan application, the DRB shall schedule and hold an initial meeting at the earliest available regularly scheduled DRB meeting after the date of submission to review the sketch plan and accompanying information for compliance with these subdivision regulations. The applicant, and/or, their duly authorized representative, shall attend the meeting of the DRB on the sketch plan to discuss the requirements of these regulations.

(2) **Action on Sketch Plan.** The DRB shall review the sketch plan and accompanying information and shall:

- a. Determine whether or not the sketch plan generally conforms to, or would be in conflict with the development regulations, and/or other regulations currently in effect.
- b. The DRB, within forty-five (45) days of the completion of a sketch plan review, or any continuation thereof, shall inform the applicant in writing, of any specific recommendation for changes in subsequent submission. The DRB may inform the applicant or authorized representative verbally, in lieu of writing, at the sketch plan meeting of specific recommendations and/or subsequent submissions. The minutes of the meeting shall indicate the recommendations of the DRB.
- c. Any determination the DRB makes at sketch plan review does not constitute approval of the proposed subdivision.
- d. The DRB may determine at sketch plan that the applicant can combine Preliminary Plan and Final Plan applications and reviews.

**(E) Major Subdivisions - Preliminary Plan Review.** All subdivisions major subdivisions shall require Preliminary Plan Review by the DRB according to this Section.

- (1) **Preliminary Plan Public Hearing.** A public hearing to consider the preliminary plan, warned in accordance with Section 9.6, shall be held by the DRB at the earliest available regularly scheduled DRB meeting after the date of submission of a complete application. The applicant or his duly authorized representative shall attend the hearing to discuss the preliminary plan and associated information and materials.
- (2) **Action on Preliminary Plan.** The DRB, within forty-five (45) days of the completion of the public hearing, or any continuation thereof, shall approve, modify and approve, or deny said preliminary plan in compliance with Section 9.7.
- (3) **Effect of Preliminary Plan Approval.** Approval of a preliminary plan shall not constitute approval of the final subdivision plan and plat. Prior to approval of the final subdivision plan and plat, the DRB may require additional changes as a result of further study. The approval of a preliminary plan shall be effective for a period of one (1) year. Any plan and plat not submitted for final approval prior to the expiration of one (1) year shall be null and void, and the applicant shall be required to resubmit a new application for preliminary plan approval, subject to all new zoning and subdivision regulations. If the DRB decides to require that a subdivision be divided into separate phases as a condition of preliminary plan approval the DRB may extend the one-year effective period of preliminary approval to a specific date.

**(F) Major Subdivisions - Final Plan and Plat Review.** All major subdivisions shall require Final Plan and Plat Review by the DRB according to this Section.

- (1) **Final Plan and Plat Hearing.** A public hearing on the final plan and plat, warned in accordance with Section 9.6, shall be held by the DRB at the earliest available regularly scheduled DRB meeting, after the date of submission of a complete application. The applicant or his duly authorized representative shall attend the hearing to discuss the final plan and plat.
- (2) **Final Plan and Plat Action.** The DRB shall, within forty-five (45) days of the public hearing or any continuation thereof, approve, modify and approve, or deny such plan and plat in compliance with Section 9.7.
- (3) **Effect of Final Approval.** The approval by the DRB of a final subdivision plan and plat shall not be deemed to constitute or be evidence of any acceptance by the Town of any street, easement, utilities, park, recreational area or open space shown on the final plan and plat. Such acceptance may only be accomplished by formal resolution of the Selectboard in accordance with applicable State laws.

**(G) Plat Recording.** Upon final approval of all subdivisions by the DRB, the applicant shall prepare a copy of the plat for recording in conformance with the requirements of 27 V.S.A. Chapter 17 and Section 9.11. All approved building envelopes, if they exist within a subdivision or PUD, shall be shown on the final plat. No plat may be recorded or filed until it has been approved by the DRB and such approval and the date thereof is endorsed in writing on said plat by the Chair of the DRB. The final plat shall be filed by the applicant with the Town Clerk within one hundred eighty (180) days of final approval. Final approval shall expire if the final plat is not filed by the applicant within said one hundred eighty day period.

**(H) Subdivision Amendments**

- (1) **Revisions to Approved Plats.** No changes, erasures, waivers, or revisions shall be made on any subdivision plat after final approval, including any amendment or revision of a condition of final plat approval, unless said plat as modified is first resubmitted to the DRB and approved in accordance with the procedures set forth in subsection (F) Final Plan and Plat Review.

#### **Section 4.4 - General Subdivision Standards**

- (A) **Evaluation and Application of Standards.** The DRB shall evaluate subdivisions in accordance with the standards set forth below. The DRB may require the applicant to submit data addressing impacts related to these standards. In light of findings made on these standards, the DRB may require modification and phasing of the proposed subdivision, or measures or conditions to avoid or mitigate any undue adverse effects (see Figure 3.2) .

#### **(B) Basic Standards.**

- (1) **Maximum Density.** The maximum density permitted within a subdivision is determined by dividing the total acreage within a subdivision by the maximum density for the zoning district (see Table 2.2). This provides the applicant with the total number of units permitted within a subdivision. A unit is considered one residential unit, a single commercial establishment, or other single use.

Where a lot to be subdivided or developed is located in two or more zoning districts, the minimum allowed density for the entire lot shall be the aggregate of the allowable density of each portion that is in a separate zoning district.

- (2) **Site Suitability and Resource Protection.** Prior to the approval of a subdivision plat, the applicant has the responsibility to satisfy the DRB that the land to be developed is physically suitable for the purpose. Factors of the site to be considered include protection of primary conservation resources (see Section 5.11), protection of secondary conservation resources (see Section 7.3), drainage and stormwater management (see Section 7.5 and Section 7.6), and other natural conditions. To fulfill this requirement, the applicant may be required by the Development Review Board to create building envelopes that ensure the protection of the above cited resources.
- (3) **Conformance with Other Regulations.** Subdivision plats shall conform to the Development Regulations, and all other bylaws, ordinances and regulations of the Town of Fletcher currently in effect.
- (4) **Lot Layout.** The layout of lots shall be in conformance with the dimensional requirements in Section 2.4(C). The layout of lots shall also be in conformance with the following standards:
  - a. To allow access onto side streets and minimize access to Town Highways;
  - b. To utilize common driveways for adjacent lots;
  - c. To consider use of solar orientation and vegetation control for building energy conservation.
  - d. Corner lots shall have sufficient width to permit a front yard setback on each street.
- (5) **Lot Corner Markers.** Permanent corner markers shall be placed on all subdivided parcels in conformance with the Rules of the Board of Land Surveyors, Part 5, Standards for the Practice of Land Surveying.

- (6) **Landscaping and Screening.** The preservation, planting and maintenance of trees, ground cover or other vegetation, of a size and type deemed appropriate by the DRB, shall be required:
  - a. To provide an undisturbed vegetated buffer between developed and undeveloped portions of the site to protect water quality and/or primary conservation resources.
  - b. To provide screening of development to increase privacy, reduce noise and glare, or to otherwise soften and/or lessen the visual impacts of development;
  - c. To establish street trees along public or private roads to establish a canopy effect and/or maintain a village scale where the DRB deems it appropriate;
  - d. To preserve existing specimen trees, tree lines, wooded areas of particular natural or aesthetic value to the site, or significant wildlife habitat;
  - e. To establish a barrier between different types of land uses;
- (7) **Lighting.** Information regarding exterior lighting fixtures, including fixture type, mounting location and height, illumination levels and distribution, and color shall be submitted. A lighting plan prepared by a qualified engineer or lighting expert shall be required for major subdivisions. The use of street or security lighting may be required. Security lighting, where deemed required by the Development Review Board, shall be shielded and aimed so that illumination is directed only on to the designated area and not cast on other areas.
- (8) **Energy Conservation.** The proposed development shall demonstrate due regard for energy conservation in design. To conserve energy, all subdivisions shall use the least amount of area for roadways and the least length of sewer, water and utility lines within environmentally and economically sound limits. Clustered development (e.g., planned unit development) should be considered wherever allowed. The siting of buildings shall maximize solar access where feasible and landscaping shall be effectively used to provide wind barriers and reduce heat loss or gain.
- (9) **Master Plans.** When an applicant submits a proposal for development on a minor portion of a parcel the DRB may require a general indication of the intended uses of the remaining portion of land including proposed roads, driveways or streets, the future probable lot lines and building envelopes of the remaining portion of the tract, and a description of the probable uses (drawn in sketch plan format).
- (10) **District Purpose.** Subdivisions shall be designed to achieve the purpose and desired settlement pattern of the zoning district within which they are located, as defined in Article II of the Fletcher Development Regulations.

**(C) Community Services and Facilities.**

- (1) **Traffic.** The proposed subdivision shall not cause unreasonable congestion or unsafe conditions on the affected public or private roads.
- (2) **Public Uses and Facilities.** No unreasonable burden shall be placed upon the ability of the Town to provide educational, fire and/or other public facilities and services. Considerations shall include the capacity of facilities and services directly affected, and the public cost of improvements relative to the anticipated tax return from the proposed development. This includes the erection, construction and alteration in facilities or nature of use (by any municipal,

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state or federal government, public utility or other quasi-public institutions) of public buildings, recreation facilities, water supply and sewage treatment facilities, and including public and private schools or other educational institutions certified by the Vt. Dept. of Education.

### (D) Utilities

- (1) **Utilities.** All utilities systems, existing and proposed, throughout the subdivision shall be shown on the final plan and be located as follows:
  - a. All utility systems, including but not limited to electric, gas, telephone, and cable television, shall be located underground throughout the subdivision.
  - b. The applicant shall coordinate subdivision design with the utility companies to ensure adequate and suitable areas for under or above ground installation, both for the proposed subdivision, and areas adjacent to the subdivision.
  - c. Utility corridors shall be shared with other utility and/or transportation corridors, and located to minimize site disturbance, the fragmentation of agricultural, conservation and shore lands..
- (2) **Easements.** Easements of sufficient width shall be provided so as to serve both the proposed subdivision and existing and anticipated development outside the subdivision. Such easements shall be shown on the final plat.

- (E) **Phasing.** At the time the DRB grants preliminary approval, it may require the proposed subdivision to be divided into two or more phases to be developed at separate times and may impose such conditions upon the filing of application for final plan and plat approval as it deems necessary to assure the orderly development of the subdivision and coordination with the planned and orderly growth of the Town as set forth in the Town Plan.

### **Section 4.5 – Natural Subdivision**

- (A) A right-of-way (Railroad, highways, easements, and rivers) does not create natural subdivision of property unless the location and function of the right-of-way effectively separates the property so it cannot be used or developed as one parcel or lot.

## **Article V. General Regulations and Review Standards**

### **Section 5.1 - Access and Frontage Requirements**

(A) In accordance with the Act [Section 4412.3], no land development may be permitted on lots in existence prior to the effective date of these regulations, which does not have adequate means of access, including either:

- (1) Frontage on a regularly maintained public road (State, Class I, II, III, IV) or public waters; or
- (2) With the approval of the DRB, access by means of a permanent easement or right-of-way at least twenty (20) feet wide to such a public road or to public waters.

For access subject to DRB approval, the DRB may consider intended use, safety, traffic, road, and site conditions in granting or denying approval through conditional use review. Access by right-of-way shall be approved concurrently with any other DRB application as outlined in Section 9.6. If no other DRB approval is required, access by right-of-way shall be approved under the major subdivision review process.

(B) Frontage requirements for lots served by private rights-of-way or easements shall be the same as those for lots served by public rights-of-way.

(C) Lots created after the effective date of these regulations are subject to all access and/or frontage requirements contained in Articles II and IV.

(D) Shared access is encouraged and may be required subject to subdivision review and/or conditional use review under Section 3.2 and Article IV. Private roads with four (4) or more lots shall be required to meet public road standards.

(E) An access permit must be obtained prior to the issuance of a zoning permit. All access onto public roads is subject to the approval of the Fletcher Select Board, and for state highways (Route 108), the Vermont Agency of Transportation. As a condition of access approval, compliance with all local ordinances and regulations pertaining to highways and land use is required. In addition, the Select Board and/or Agency, in accordance with state law [19 V.S.A. 1111(f)], may require the elimination of accesses previously permitted or the construction of a common frontage road or other access improvements, which may serve more than one property or lot.

### **Section 5.2 - Conversions and Changes of Use**

(A) Changes or conversions in the use of land or existing structures are subject to the provisions of these regulations as follows:

- (1) The proposed use shall be subject to all the requirements of these regulations pertaining to such use, including but not limited to any zoning district, parking, or access standards, as well as any other applicable municipal, state or federal regulations currently in effect.
- (2) A conversion or change of use from one permitted use to another permitted use shall require a zoning permit to be issued by the Zoning Administrative under Section 3.1

- (3) A conversion or change of use from a permitted to a conditional use, or from one conditional use to another conditional use, shall be approved by the Development Review Board subject to conditional use review under Section 3.2.
- (4) Changes or conversions involving non-conforming uses and/or non-conforming structures shall be subject to this section and the standards in Section 5.7.

### **Section 5.3 - Damaged Structures and Abandonment of Construction**

- (A) No zoning permit shall be required for the stabilization of damaged structures to prevent imminent hazards to public health and safety, and to adjoining properties; nor for the repair, restoration or reconstruction of damaged structures to the extent of their prior condition and use per Section 3.1(F). Rebuilding that results in density, dimensional or use changes under the provisions of these regulations shall require a zoning permit.
- (B) Within two (2) years after the abandonment of any structure which has been substantially damaged or destroyed by fire or other cause or abandonment on an uncompleted construction project, the owner shall immediately either:
  - (1) Obtain a new zoning permit under Section 3.1 to resume repair or construction; or
  - (2) Remove or bury all ruins and structural materials in accordance with all applicable state and federal regulations, restore the site to a smooth grade, and establish a ground cover sufficient to prevent erosion.
- (C) For non-conforming structures, all reconstruction shall be in compliance with Section 5.7.

### **Section 5.4 - Equal Treatment of Housing**

- (A) Pursuant to the Act [Section 4412], a mobile home shall be considered a single-family dwelling, and shall be required to meet the same zoning requirements applicable to dwellings, except when unoccupied and displayed in an approved mobile home sales establishment, or allowed as a temporary structure under Section 5.13 of these regulations. No provision of these regulations shall have the effect of excluding mobile homes, modular housing, or other forms of prefabricated housing from the municipality except upon the same terms and conditions as conventional housing is excluded.
- (B) In addition, mobile homes may be permitted in a mobile home park subject to the provisions of Section 6.10 and applicable state regulations [24 V.S.A. Chapter 61, Subchapter 10].

### **Section 5.5 - Existing Small Lots**

- (A) Pursuant to the Act [Section 4412(2)], any lot in individual and separate, non-affiliated ownership from surrounding properties may be developed for the purposes permitted in the district in which it is located, even though it does not conform to the minimum lot dimension requirements, if such lot is not less than one-eighth (1/8) acre in area with a minimum depth or dimension of forty (40) feet.
- (B) If a pre-existing small lot subsequently comes under common ownership with one or more contiguous lots, it shall be deemed merged with the contiguous lot for the purpose of these regulations. Such lots shall not be deemed merged, and may be separately conveyed, if all of the following are met:
  - (1) The lots are conveyed in their pre-existing, nonconforming configuration; and

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- (2) On the effective date of these regulations, each lot had been developed with a water supply and wastewater disposal system; and
- (3) At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner;
- (4) the deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems in case a wastewater system fails, pursuant to the Act [Section 4412(2)].

### **Section 5.6 - Height of Structures**

(A) No structure shall exceed thirty-five (35) feet in height above the lowest grade at ground level, except as permitted under subsection (B), or for the following, which are specifically exempted from the height requirements of these regulations:

- (1) Agricultural structures in accordance with the Act [Section 4413(d)];
- (2) Church steeples, spires and belfries;
- (3) Accessory structures associated with residential use which are less than fifty (50) feet in height, as measured from the lowest grade at ground level to the top of the structure, including antennas, satellite dishes less than three (3) feet in diameter, flag poles, ornamental cupolas, chimneys, wind generators with blades less than twenty (20) feet in diameter, and rooftop solar collectors.

(B) The Development Review Board may permit structures in excess of thirty-five (35) feet in height subject to conditional use review under Section 3.2, provided that:

- (1) The structure does not constitute a hazard to public safety, or to adjoining properties;
- (2) The portion of the structure above thirty-five (35) feet shall remain unoccupied except for normal maintenance;
- (3) All required front, side and rear yard setbacks are increased by one (1) foot for each foot of height over thirty-five (35) feet;
- (4) The portion of the structure over 35 feet is not to be used for advertising purposes;
- (5) Adequate fencing and screening are provided as appropriate;
- (6) Lighting, if deemed necessary by the Board, shall be restricted to the minimum required for security and safe operation (see Section 5.9).
- (8) All applicable performance standards under Section 5.10 are met.

### **Section 5.7 - Non-Conforming Structures and Non-Conforming Uses**

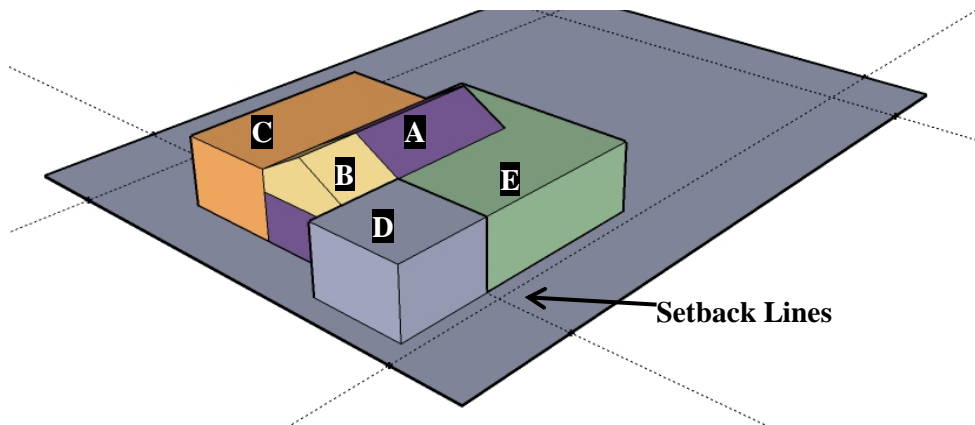
(A) **Non-conforming-Structures.** Any pre-existing structure or part thereof which is not in compliance with regulations concerning setbacks, height, or other dimensions shall be deemed a non-conforming structure. In accordance with the Act [Section 4412(7)] any non-conforming structure existing on the effective date of these regulations may be allowed to continue indefinitely, but shall be subject to the following provisions:



- (1) A non-conforming structure may undergo normal repair and maintenance without a permit provided that such action does not increase the degree of non-conformance.
- (2) No permit shall be required to restore or reconstruct a non-conforming structure after damage from any cause. Any change in use shall be subject to Section 5.2 or subsection (B) of this Section as applicable. Reconstruction shall not increase the degree of non-conformance which existed prior to the damage. See also Section 5.3.
- (3) A non-conforming structure may be enlarged or expanded, with conditional use approval of the Development Review Board. Any change in use shall be subject to Section 5.2 or subsection (B) of this Section as applicable. Any expansion shall not increase the degree of non-conformance (e.g., the footprint or height of the structure located within setbacks).
- (4) A non-conforming structure may, undergo alteration or expansion which would increase the degree of non-conformance solely for the purpose of meeting mandated environmental, safety, health or energy codes that would allow for continued use of the non-conforming structure, subject to conditional use review under Section 3.2.

**Figure 5.1 Increasing the Degree of Nonconformity**

*The building 'A' is the original nonconforming structure, which encroaches into the setback. Additions 'B' and 'C' increase the degree of nonconformance because they add building footprint, floor area or height within the setback. Addition 'D' also increases the degree of nonconformance because it encroaches further into the setback than Building 'A'. Addition 'E' does not increase the degree of nonconformance because it is not within the setback area.*



- (B) **Non-Conforming Uses.** Any pre-existing use of land, or use of a structure, which does not conform to the allowable use provisions in Article II for the zoning district in which the use is located shall be deemed a non-conforming use. In accordance with the Act [Section 4412(7)], any non-conforming use, which exists on the effective date of these regulations, may be continued indefinitely, but shall be subject to the following provisions:
- (1) A non-conforming use shall not be re-established after being abandoned or discontinued for a period of two (2) years, or after being changed to a conforming use, regardless of the intent to re-establish such prior use.
  - (2) A non-conforming use shall not be restored or continued after damage from any cause unless such non-conforming use is carried on uninterrupted in the undamaged part of the structure; or the non-

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conforming use is reinstated by the commencement of construction within eighteen (18) months of such damage and the construction or restoration of the structure is completed within two (2) years. Otherwise the non-conforming use shall be deemed to have been discontinued.

- (3) A non-conforming use shall not be changed to another non-conforming use.
- (4) A non-conforming use may be moved, extended or enlarged, subject to conditional use review under Section 3.2, only if the Development Review Board finds that such movement, extension or enlargement will not exceed twenty-five (25%) percent of its size or extent as of the effective date of these regulations.

### **Section 5.8 - Open Storage of Junk and Junk Vehicles**

- (A) The dumping, burying, disposing, or open burning of junk, as defined by these regulations and Title 24 V.S.A. 2241, is prohibited except in salvage, disposal or recycling facilities specifically permitted for such use under applicable municipal and state regulations.
- (B) In all districts, junk shall be stored in an enclosed area or in an area concealed from public roads [also See Salvage Yards, Section 6.12]. This standard does not apply to vehicles or materials used in farming or forestry operations.

### **Section 5.9 - Outdoor Lighting**

- (A) **Applicability.** The following standards shall apply to applications subject to Development Review Board review to ensure that undesirable effects of outdoor lighting in the Town of Fletcher are minimized.
- (B) **Intent.** The residents of the Town of Fletcher strongly value the town's rural character, as noted in the Fletcher Town Plan, including their ability to clearly view and enjoy the night sky. It is also recognized that, while some outdoor lighting may be necessary for security and safe operation, inappropriate or poorly designed or installed lighting can create unsafe conditions and a nuisance for adjoining property owners, cause sky glow which obstructs night views of the sky, and result in the unnecessary use of electric power.
- (C) **General Standards.** The following general standards apply to all outdoor lighting in the Town of Fletcher, with the exception of temporary holiday lighting:
  - (1) All outdoor lighting shall be kept to the minimum required for safety, security and intended use, consistent with the character of the neighborhood in which it is located.
  - (2) Permanent outdoor lighting fixtures shall not direct light beyond the boundaries being illuminated or onto adjacent properties, or public waters, shall minimize glare, and not result in excessive lighting levels which are uncharacteristic of a rural area. Lighting fixtures shall be cast downward and/or designed to minimize glare. Such fixtures may include recessed, shielded or cutoff fixtures, and/or low luminance lamps (e.g., 150 watts or 2,000 lumens).
  - (3) The use of timers, dimmers, and/or sensors wherever practicable is encouraged on outdoor lighting fixtures to reduce energy consumption and eliminate unneeded lighting.

### **Section 5.10 - Performance Standards**

- (A) The following standards of performance must be met and maintained by all uses in all districts. In

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determining ongoing compliance, the burden of proof shall fall on the applicant, property owner, and/or all successors and assignees. No use of land or structures, with the exception of agriculture and forestry, subject to subsections (B) and (C), shall:

- (1) emit odors, noise, dust, dirt, noxious smoke, or gases, glare or vibrations or other disturbances beyond the property line which are offensive and uncharacteristic of the area; which adversely affect the reasonable use of adjoining or nearby properties; which cause damage to any property, business, or vegetation; or which endanger the health, comfort, safety or welfare of the neighborhood;
  - (2) present an unreasonable risk as to fire, explosion or safety which endangers the public or neighboring properties, or which results in an increased burden on municipal facilities and services;
- (B) Agricultural operations shall at minimum observe Accepted Agricultural Practices (AAPs) as defined and administered by the Vermont Department of Agriculture (see Section 3.1[F]).
- (C) Forestry operations shall at minimum observe Acceptable Management Practices (AMPs) as defined and administered by the Vermont Department of Forests, Parks and Recreation (see Section 3.1[F]).

### **Section 5.11- Primary Conservation Resources**

- (A) **Applicability.** This section shall apply to all projects involving primary conservation resources.
- (B) **Steep Slopes over 25 Percent Grade.** Steeply sloping lands (over 25 percent grade) are prone to severe erosion if disturbed. Erosion and the resulting overland flow of soil sediments into streams, ponds and public roads, are detrimental to water quality and aquatic life, and a potential hazard to public safety.
- (1) No site disturbance or land development shall be allowed on slopes exceeding 25 percent.
  - (2) Slopes exceeding 25 percent that are created by an extraction or quarrying use approved per Section 6.13 shall be exempt from this section.
- (C) **Wetlands.** The intent of this regulation is to minimize the net loss of wetlands in the Town of Fletcher. Wetlands classified by the State of Vermont as Class 1 and Class 2 wetlands are valuable resources. Wetlands' functions (e.g. water and air purification, flood attenuation, speciation, and nutrient cycling) are critical to the support of human, animal and plant populations.
- (1) **Applicability.** The Vermont Significant Wetlands Inventory (VSWI) maps published by the Vermont Agency of Natural Resources should be used by the Applicant as a tool to determine whether or not a wetland may exist on a property. However, such maps should not be relied upon to provide precise information regarding the location or configuration of significant wetlands. Where uncertainty exists as to the existence or location of a significant wetland, the Zoning Administrator and/or Development Review Board shall require that the applicant submit written documentation of such based on consultation with a State Wetlands Ecologist or a private consultant with expertise in identifying wetlands before issuing a zoning permit or development review approval.
  - (2) **Review Standards.**

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- a. No land development shall be permitted in a Class 1 or Class 2 wetland, except as exempted in (c) below.
- b. No land development shall be permitted within the 50 foot buffer surrounding a Class 1 or Class 2 wetland, except as exempted in (c) below.
- c. Driveways, public and private roads are exempt from this subsection if a State Wetlands Individual or General Permit has been issued to the applicant by the Vermont Agency of Natural Resources.

(D) **Special Flood Hazard Area.** The Special Flood Hazard Area, or 100-year floodplain, is considered a primary conservation resource. Land development within the Special Flood Hazard Area is regulated via Article VIII.

### (E) Rivers and Streams

- (1) **Intent.** Surface waters and their buffers are valuable to people and vital to our natural resources. The floodplains, wetlands, and wooded slopes along streams are very important parts of the stream ecosystem, and in many ways determine the diversity and health of a stream. The maintenance and enhancement of streamside and lakeside vegetation is the easiest and most effective means of protecting the many benefits and values associated with Fletcher's waters. Thus, the Town of Fletcher requires that an undisturbed naturally vegetated buffer strip be maintained from each bank of streams and rivers to ensure the stabilization of banks and soil, to decrease flood severity and to aid in filtering stormwater runoff pollutants.
- (2) **Permitted Activities.**
  - a. **New Structures.** New structures or alteration of existing structures for public roads, sidewalks, transmission lines, and sewer, water and gas lines may be constructed in buffers only if no practicable or feasible alternative exists for locating the structure elsewhere. If constructed within the buffer, acceptable management practices as outlined in Section 7.6 – Stormwater Management are required.
  - b. **Existing Structures.** Existing structures already located in the buffer may be removed, restored, repaired, or maintained. Enlargements of no more than 20% may be allowed with conditional use approval from the DRB, contingent upon the submittal of a mitigation plan that includes acceptable management practices as outlined in Section 7.6 – Stormwater Management. The DRB may impose conditions such as:
    - i. Planting native species such as willow, silver maple, or cottonwood along the riverbanks (invasive species shall be excluded).
    - ii. Allowing a natural buffer to form from the edge of the lawn to the water. This can simply be done by not mowing to the edge of the property along the waterway.
    - iii. Re-positioning rain gutters so that they drain to the lawn instead of pavement.
- (3) **Prohibited Activities.** The following uses shall be prohibited within buffer strips:

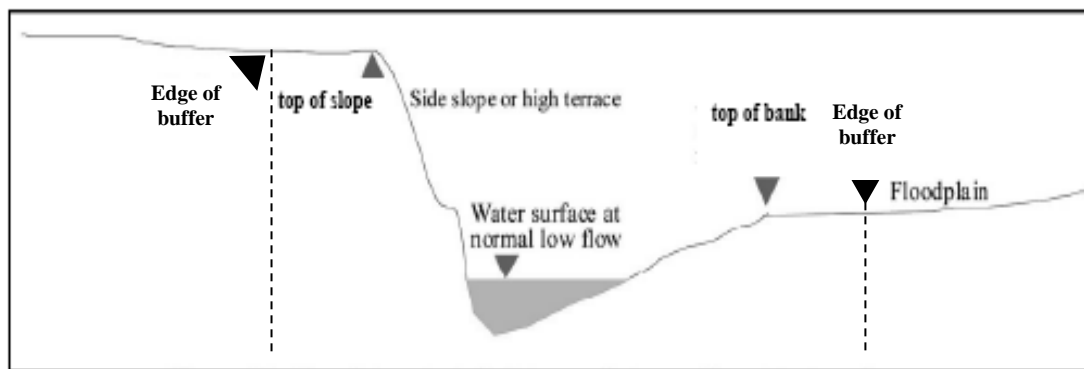
## DEVELOPMENT REGULATIONS - TOWN OF FLETCHER, VT

- a. Except as permitted above, no alteration of streambed or bank, except to reduce erosion, and maintenance of stream crossings for agricultural purposes.
  - b. In general, disturbances to natural vegetation are prohibited. These include disturbances by whole tree removal (with the exception of dead, diseased or unsafe trees), stump removal, clearing, burning, and spraying. No pesticide, herbicide, or fertilizer use or storage.
  - c. No storage for motorized vehicles. No use of motorized vehicles except for approved maintenance and emergency use.
  - d. No soil disturbance from grading, plowing, except with approved soil conservation and water quality plan.
  - e. No mining or excavation, except existing uses, no dredging except as permitted by State law.
  - f. No deposit or landfill, solid or liquid waste; fill allowed only as approved by the Army Corps of Engineers.
  - g. No storage of materials.
  - h. No dumping.
  - i. No fill to expand development area.
- (4) **Exempt Activities.** The following activities shall be considered exempt from this regulation:
- a. The removal of invasive species, as classified by the Vermont Agency of Natural Resources, from within the buffer zone.
  - b. Metcalf Pond and Half Moon Pond. Land development near lakes and ponds over 10 acres in size, including Metcalf Pond and Half Moon Pond, are under the jurisdiction of the Vermont Agency of Natural Resources.
  - c. Any activity, including the removal of trees, if allowed within a management plan prepared or approved by the Agency of Natural Resources, the Agency of Agriculture, Natural Resources Conservation Service or a similar state or federal organization. Examples of a management plan may include, but shall not be limited to, a Forest Management Plan or a Comprehensive Nutrient Management Plan.
- (5) **Waiver.** In cases where the applicant cannot comply with these regulations due to a hardship caused by topography, buffer requirements may be waived or modified via conditional use approval by the DRB in accordance with a management plan that provides equal or better water quality protection, requires mitigation measures to compensate for loss of habitats, and does not adversely affect habitats of threatened and endangered species.
- (6) **Measurement.** The width of the buffer strip shall be in accordance with Table 5.1 below and should be measured from the top of bank or top of slope, depending upon characteristics of the waterway (see Figure 5.2). No development shall occur within the buffer strips.

**Table 5.1 Width of Buffer Strips (feet along the ground surface)**

Type of Waterway [1]	Required Buffer
Streams < 10 feet in average channel width	10 feet
Rivers and streams > 10 feet in average channel width	50 feet
[1] All streams that are included on the Vermont Hydrography Dataset (VHD) created and managed by the US Geological Survey (USGS), and available through the Vermont Center for Geographic Information (VCGI), shall be subject to this regulation.	

**Figure 5.2**  
**Finding Top of Slope and Top of Bank for Measuring Buffer Setbacks**



### **Section 5.12 - Signs**

(A) **Applicability.** All signs erected in the Town of Fletcher shall be in compliance with this section.

- (1) **Types of Signs.** The following types of signs are permitted in the Town of Fletcher:
  - a. **Permanent Business Signs.** Permanent business signs for purposes of identifying an on-premise recreational, commercial or industrial use.
  - b. **Home Occupation Signs.** Signs identifying a home occupation.
  - c. **Temporary Signs.** Temporary signs for the purpose of advertising on property sales or rent.
  - d. **Official Business Directory Signs.** Official business directional signs and sign plazas as defined in and erected pursuant to Chapter 21, Title 10, V.S.A.
- (2) **Prohibited and Exempted Signs.** All signs not expressly authorized or exempted under this section are prohibited.

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(B) **Standards.** The following standards shall apply to all signs:

- (1) **Size.** When calculating the size of a flat sign, only the area of one face shall be counted. The measurement of signs consisting of freestanding letters or numerals shall include any intervening spaces (the entire message area), in the calculation of total sign area. When calculating the size of a three-dimensional sign, such as a pyramid or box, the area of all advertising faces shall be counted. The size of all signs shall be compliance with the following standards`:
  - a. **Permanent Business Signs.** Permanent business signs shall not exceed twenty (20) square feet in area.
  - b. **Home Occupation Signs.** Home occupation signs shall not exceed four (4) square feet in area.
  - c. **Temporary Signs.** Temporary signs shall not exceed fifteen (15) square feet in area.
- (2) **Lighting.** Signs shall have no internal illumination and only be illuminated by a shielded continuous non-flashing light. Temporary signs shall not be illuminated.
- (3) **Location.** All signs shall be located outside both public and private road rights-of-way on private property. Signs located on a structure shall be referred to as building mounted signs. Signs that are not located on a structure shall be referred to as freestanding signs.
- (4) **Height.** No freestanding sign in any district shall be higher than ten (10) feet from the average grade of the surrounding ground to the highest point of the sign.
- (5) **Number of Signs.**
  - a. **Permanent Business Signs.** Recreational, commercial, or industrial uses are allowed a maximum of two (2) permanent business signs. This may include one (1) freestanding sign and one (1) building-mounted sign, two (2) building-mounted signs, or two (2) freestanding signs.
  - b. **Home Occupation Signs.** Each home occupation is allowed one (1) free standing sign or one (1) building-mounted sign. .

## (C) Exemptions

- (1) The following signs are exempt from local regulations:
  - a. Signs erected by the state or town on public roads.
  - b. Signs placed for directional, safety or public service purposes.
  - c. Signs relating to trespassing and hunting.
  - d. Temporary for sale signs auction, lawn or garage sales or real estate which shall be removed immediately following the event or sale.
  - e. Temporary signs for elections that are posted and removed in accordance with state law.
  - f. Temporary signs advertising public or community events, to be displayed in designated locations on town property with the prior permission of the Select Board, which shall be

removed immediately following the event.

- g. Building mounted or freestanding historic or landmark signs located on-premises. These signs shall not to exceed six (6) square feet in area per property.
- h. Wall murals intended solely for artistic, non-advertising purposes.

### **Section 5.13 - Temporary Uses and Structures**

- (A) Temporary permits, not to exceed one (1) year in duration, may be issued by the Zoning Administrator for non-conforming uses or non-conforming structures, excluding dwelling units, which are incidental to construction projects, provided that the property owner shall remove the temporary structure or use upon completion of construction or the expiration of the permit, whichever occurs first. District setback requirements and all other applicable provisions of these regulations shall apply.

### **Section 5.14 - Water and Wastewater Disposal**

- (A) All structures and uses that generate wastewater or require access to potable water may be required to obtain a Wastewater and Potable Water Supply Permit from the Vermont Department of Environmental Conservation (DEC) in accordance with 10 V.S.A. Chapter 64 and the Wastewater System and Potable Water Supply Rules (dated September 29, 2007 or as most recently amended). Applicants proposing land development that generates wastewater or requires access to potable water shall contact the Agency of Natural Resources District Permit Specialist to determine if such a permit is required.
- (B) If, according to the DEC, a Wastewater System and Potable Water Supply Permit is not required, the property owner/applicant shall provide written proof from the DEC of such to the Zoning Administrator.
- (C) It shall be unlawful to use or occupy any new principal structure or accessory dwelling requiring a Wastewater and Potable Water Supply Permit until a Certificate of Occupancy has been issued by the Zoning Administrator (See Section 3.1 (F)).



## **Article VI. Specific Use Standards**

### **Section 6.1 - Applicability**

- (A) **Applicability.** The standards in this section shall apply only to specific uses. If such standards conflict with other standards in these regulations, the more restrictive standards shall apply.

### **Section 6.2 - Accessory Dwellings**

- (A) There shall be only one (1) principal structure per residential lot except as provided in Section 2.4(C). One (1) accessory dwelling per V.S.A Title 24, [Section 4412(E)] may be permitted for a residential lot on which a single-family dwelling is the principal use, subject to the following provisions:
- (1) The accessory dwelling shall meet all setback requirements for the district in which it is located; or for an accessory dwelling attached to a non-conforming structure, the accessory dwelling shall in no way increase the degree of non-compliance under Section 5.7.
  - (2) Floor space shall not exceed thirty percent (30%) of the habitable floor space of the primary dwelling, or eight hundred (800) square feet, whichever is greater.
  - (3) The applicant shall demonstrate that adequate water and wastewater supply (Section 5.14) and off-street parking (Section 7.2) exists to accommodate the residents of the accessory dwelling.
  - (4) The permit for the accessory dwelling shall clearly state that the dwelling is an accessory structure to the primary residence and shall be retained in common ownership. An accessory dwelling may only be subdivided and/or converted for sale or use as a single-family dwelling if it meets all existing municipal and state regulations applying to single-family dwellings, including all density, dimensional and other requirements for the district in which it is located. Separate permits shall be required prior to subdivision and/or conversion.

### **Section 6.3 - Agricultural Housing**

- (A) Agricultural housing which is intended solely to house farm workers and their families or seasonal or migrant agricultural workers, and is therefore accessory to the principal agricultural use of a property, shall only be approved subject to the following provisions:
- (1) Up to two (2) additional single-family dwellings, not including the primary farm residence may be approved as permitted uses under Section 2.4 in designated districts, subject to the following requirements:
    - a. Occupancy is restricted to farm workers and their families;
    - b. Each dwelling unit shall be approved on a minimum land area (“set aside”) equal to the minimum lot size required for the zoning district in which the property is located, and shall meet all other district requirements pertaining to single-family dwellings, including maximum density.
    - c. Adequate water supply, wastewater treatment (in accordance with Section 5.14) and off-street parking capacity (in accordance with Section 7.2) exist to accommodate residents;

- (B) Multi-family dwellings for seasonal or migrant agricultural workers may be approved in designated

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districts subject to conditional use review under Section 3.2 and the following requirements:

- (1) Multi-family dwellings for seasonal or migrant agricultural workers shall be approved on a minimum land area ("set aside") equal to the minimum lot size required for the zoning district in which the property is located, and shall meet all other district requirements pertaining to multi-family dwellings for the district in which it is located including maximum density.
- (2) The housing shall be located to minimize undue adverse effects (see Figure 3.2) to the agricultural operation. Landscaping and screening may be required as appropriate.
- (3) Adequate water supply, septic system, and off-street parking capacity (in accordance with Sections 5.13 and 7.2) shall exist to accommodate residents of the accessory dwelling.
- (4) The permit shall clearly state that this housing is accessory to the principal agricultural use of the property and shall be retained in common ownership for this purpose. Such housing may only be subdivided and/or converted for sale or use as a multi-family dwelling separate from the agricultural use if it meets all current local regulations applying to multi-family dwellings, including all density, dimensional and other requirements for the district in which it is located. Separate permits shall be required prior to sale and/or conversion.

### **Section 6.4 - Campers/Recreation Vehicles**

(A) No camper or recreational vehicle shall be parked on any public or private property except in conformance with the following regulations:

- (1) Campers and recreational vehicles are permitted to be parked in approved campgrounds, sales establishments and, for temporary periods, on construction sites (see Section 5.13) provided they are in compliance with Section 5.14.
- (2) One (1) camper or recreational vehicle may be permanently parked on a residential lot provided that it is not located within required setbacks for the district in which it is located; not occupied for dwelling purposes for more than one hundred fifty (150) days per calendar year; and is in compliance with Section 5.14.
- (3) Any camper used for living quarters for more than one hundred fifty (150) days per calendar year, or is sited so as not to be readily moveable, shall be deemed a dwelling and shall be subject to all zoning regulations applicable to accessory or single-family dwellings (see Section 2.4).

### **Section 6.5 - Campgrounds**

(A) New campgrounds, and any addition or alteration to an existing campground shall be subject to conditional use review under Section 3.2 and the following regulations:

- (1) A minimum of five (5) acres is required for new campgrounds, with at least twenty (20) percent of the total area to be set aside for recreation and open space.
- (2) All campgrounds shall meet minimum setback requirements for the districts in which they are located. A strip of land at least twenty-five (25) feet wide shall be maintained as a landscaped buffer abutting all property lines and rights-of-way. No campsite, parking area or structure shall be located in this buffer area. The Development Review Board may reduce or eliminate this landscaped area provision if such a waiver will make it possible to preserve a scenic view, providing that privacy for adjacent property owners is maintained. Additional landscaping and fencing along

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property boundaries also may be required as appropriate for screening, security, and to provide privacy.

- (3) With the exception of undeveloped, primitive camping areas, campgrounds shall provide for potable water, lavatory, shower and toilet facilities sufficient to accommodate the number of proposed campsites. For primitive camping areas it shall be demonstrated to the Development Review Board's satisfaction that acreage and setbacks are adequate to support the proposed level of use, and to avoid any undue adverse effects (see Figure 3.2) to water quality, primary and secondary conservation resources, and adjoining properties and uses. All campgrounds shall be in compliance with Section 5.14.
- (4) A campground shall provide adequate access and parking for each campsite. Roads within the campground shall meet the following minimum standards:

<b>Table 6.1 Campground Road Standards</b>		
	<b>One-way Roads</b>	<b>Two-way Roads</b>
Right-of-Way Width	18 feet	33 feet
Gravel Depth	12 inches	12 inches
Gravel Width	10 feet	20 feet

- (5) Every campground shall maintain a register, available to emergency officials or any authorized person inspecting the facility. Said register, which shall contain the names, addresses and dates of occupancy of all campground occupants, shall be preserved for a period of at least one (1) year.
- (6) Campgrounds shall comply with all other applicable state and federal regulations.

### **Section 6.6 - Gasoline Stations**

(A) Gasoline stations may be permitted in designated zoning districts subject to conditional use review under Section 3.2 and the following additional provisions:

- (1) A new gasoline station shall not be located within three hundred (300) feet of any lot occupied by a school.
- (2) The following density and dimensional requirements shall apply:

<b>Table 6.2: Gasoline Station Dimensional Requirements</b>	
Minimum Lot Size	2 acres
Minimum Lot Frontage	200 feet
Minimum Lot Depth	200 feet

- (3) All parking and pump areas shall be located to the side or in the rear of the principal structures on the lot. Garages, accessory structures, pumps, lubricating and other service equipment shall be set back at least fifty (50) feet from road rights-of-way, and front, side and rear lot lines. All fuel and oil shall be stored at least thirty-five (35) feet from all property lines.
- (4) All automobile parts and dismantled vehicles are to be stored within an enclosed building or

otherwise screened from view.

- (5) There shall be no more than two (2) access driveways. No access or curb cut shall exceed forty (40) feet in width. All accesses shall be in compliance with Section 5.1.
- (6) Canopies, if deemed necessary, shall be limited to the minimum area required for adequate pump and apron coverage, and the minimum height required to meet applicable state and federal safety requirements.
- (7) Lighting levels on station aprons, under canopies and in associated parking areas shall be the minimum required for intended activities. The lighting of such areas shall not be used for advertising or to attract attention to the business. Lights shall not be mounted on the top or sides of canopies; and the sides of canopies (fascias) shall not be illuminated. Light fixtures mounted on canopies shall either be recessed so that the lens cover is flush with the bottom surface (ceiling) of the canopy; or for indirect lighting, mounted and shielded so that direct illumination is focused exclusively on the underside of the canopy. Outdoor lighting shall also meet applicable lighting standards under Section 5.9.
- (8) Service station siting, design and layout should be compatible with the character of the neighborhood. A landscaped area shall be maintained at least five (5) feet in depth along all road frontage, excluding designated access areas. Additional curbing, landscaping and screening, and pedestrian walkways may be required as appropriate.
- (9) Gasoline stations which also include retail sales unrelated to motor vehicle service, maintenance or repair (e.g., food, convenience items) shall be reviewed as a mixed use (see Section 6.9) within designated zoning districts, and as such shall be required to meet all zoning provisions pertaining to such retail uses for the district in which they are located, including but not limited to acreage, frontage, and/or parking requirements in addition to this section.

### **Section 6.7 - Home Based Businesses [Home Occupations, Cottage Industries]**

- (A) **Home Occupations:** In accordance with the Act [Section 4412(4)] no provision of these regulations shall infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which does not have an undue adverse effect upon the character of the area. Home occupations, as distinguished from cottage industries under subsection (B), are allowed as an accessory use in all districts where residential uses are allowed, subject to the following provisions:
- (1) The home occupation shall be clearly incidental and secondary to the residential use of the property, and shall be conducted wholly within the principal dwelling or accessory structures;
  - (2) The home occupation shall be carried out on-site by members of the family residing in the dwelling unit, and no more than two (2) additional, non-resident full-time equivalent employees.
  - (3) No traffic which would be uncharacteristic of the neighborhood shall be generated.
  - (4) Exterior displays of goods and wares, exterior storage of materials, and other exterior indications of the home occupation, which does not substantially alter the residential character of the principal or accessory structures, shall be permitted.
  - (5) Adequate off street parking shall be provided to accommodate residents and non-resident employees, in accordance with Section 7.2.

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- (6) The home occupation shall have no advertised or published regular hours when the premises are open to the public. One unlit exterior sign is permitted in accordance with Section 5.12.
- (7) The home occupation shall be subject to all performance standards under Section 5.10.
- (B) **Cottage Industries:** Cottage industries or home-based businesses, as distinguished from Home Occupations under subsection (A), may be permitted in designated zoning districts subject to conditional use review under Section 3.2 and the following additional provisions:
  - (1) The business owner shall reside on the lot.
  - (2) The business shall be carried on within the principal dwelling unit and/or accessory structure(s), and shall not occupy more than four thousand (4,000) square feet in gross floor area.
  - (3) Residents of the dwelling unit and no more than four (4) non-resident, full-time equivalent employees may be employed on-site at any one time.
  - (4) The business shall not exceed fifteen (15) vehicular round trips per day in the course of conducting its regular operations.
  - (5) Adequate off-street parking shall be provided for all residents and employees in accordance with Section 7.2.
  - (6) There shall be no on-site storage of hazardous waste or materials unless stored in an approved enclosure; fuel storage shall be limited to that needed for heating, and the operation of equipment and vehicles associated with the business.
  - (7) The business shall be visually compatible with neighboring lots and uses; landscaping and screening may be required as appropriate. In addition, screening may be required for any outdoor storage of materials including building or construction materials, unregistered vehicles or heavy equipment.
  - (8) On-site wholesale and/or retail sales shall be limited to products produced or assembled on the premises.
  - (9) The business shall not create hazards to public safety and welfare or to neighboring properties, and shall be subject to applicable lighting standards under Section 7.2 and performance standards included under Section 5.10. Conditions may be placed on the hours of operation as appropriate.
  - (10) The permit for a cottage industry shall clearly state that the industry is a home-based business, which is accessory to the principal residential use, and shall be retained in common ownership and management. A cottage industry may be subdivided and/or converted for sale or use apart from the residential use only if it meets all current municipal and state regulations and bylaws pertaining to such use (see Light Industry, Section 6.8), including all dimensional, and other requirements for the district in which it is located. Separate permits shall be required as appropriate prior to subdivision, sale and/or conversion.

### **Section 6.8 - Light Industry**

- (A) Light Industry [as distinguished from cottage industries under Section 6.7(B)] may be permitted in designated zoning districts subject to conditional use review under Section 3.2, and conformance with the following provisions:

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- (1) The minimum lot size per industrial use shall be not less than two (2) acres; gross floor area shall not exceed twenty thousand (20,000) square feet.
- (2) Overall building height shall not exceed thirty-five (35) feet. The height of individual attached structural components may exceed thirty-five (35) feet, subject to Development Review Board review under Section 5.6.
- (3) All light industry shall meet minimum setback requirements for the district in which it is located. In addition, a strip of land at least fifty (50) feet in depth shall be maintained as a landscaped buffer area along all property lines and rights-of-way. No building or other structure shall be located in this buffer area. Landscaping and fencing along property boundaries also may be required as appropriate for screening, safety and security.
- (4) Industrial uses are limited to those manufacturing, fabrication or processing activities which produce no noise, vibration, noxious omissions, air or water pollution, fire or explosion hazard which would endanger or disturb neighboring properties. Such uses must comply with all performance standards under Section 5.10. Additional conditions may be imposed by the Development Review Board as appropriate to protect public health, safety, welfare, municipal facilities, services, and other public investments.
- (5) All aspects of the industrial process shall be carried out within the principal building. Accessory structures are to be used only for the storage of equipment and materials, or accessory uses such as office space.
- (6) Light industry shall have frontage on public roads or access to such roads from a private road or driveway which does not serve residential properties.
- (7) Light industry shall meet all other applicable provisions of these regulations, including but not limited to parking standards (Section 7.2), outdoor lighting standards (Section 5.9), and wastewater standards (Section 5.14).
- (8) Light industry shall meet other applicable state and federal regulations.
- (9) If light industry also includes on-site retail sales or is otherwise open to the public (e.g., tours) it shall be reviewed as a mixed use. As such it shall be required in addition to meet all zoning provisions pertaining to such retail uses for the district in which it is located, including but not limited to acreage, frontage, and/or parking requirements. Non-retail uses may be considered accessory uses or mixed use in accordance with these regulations.

### **Section 6.9 - Mixed Use**

- (A) In designated districts, more than one (1) use may be permitted within a single structure or on a single property subject to conditional use review under Section 3.2 and the following provisions:
- (1) Each of the proposed uses is otherwise allowed as permitted and/or conditional uses 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, maximum lot coverage, minimum lot size and any specific use standards set forth in Article VI.

- (3) The combined uses shall meet all applicable standards as set forth in these regulations, including but not limited to access requirements under (Section 5.1), parking Section 7.2), and wastewater (Section 5.14) as determined based on the cumulative demand for all proposed uses.

### **Section 6.10 - Mobile Home Parks**

(A) It shall be unlawful to park, place, maintain or permit two or more mobile homes on any lot for residential use except in a mobile home park duly approved under this section. This section shall not apply to campers regulated under Section 6.3, mobile homes on lots which meet the zoning requirements for single-family or accessory dwellings (Section 6.1) for the district in which they are located, or mobile homes on approved sales lots. The construction, expansion or alteration of a mobile home park may be permitted within designated zoning districts subject to conditional use review under Section 3.2, and the following provisions:

- (1) A mobile home park shall have a contiguous area of not less than five (5) acres or more than thirty (30) acres. The maximum density of any mobile home park shall not exceed an overall average of one (1) mobile home per acre unless otherwise permitted under Planned Unit Development (PUD) provisions under Section 3.3.
- (2) 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 within this buffer area. The Development Review Board may reduce or eliminate this landscaped area requirement if such modification or waiver will make it possible to preserve a scenic view, provided that privacy for adjacent property owners can be maintained. Additional landscaping and fencing along property boundaries also may be required as appropriate for screening, security, and to provide privacy.
- (3) The following minimum dimensional requirements shall apply to each mobile home lot:

<b>Table 6.3: Mobile Home Park - Minimum Dimensional Requirements</b>	
Lot Size	20,000 square feet
Lot Frontage	50 feet (along a mobile home park road)
Lot Depth	125 feet
Setback from mobile home park road	25 feet
Setback from lot lines	15 feet

- (4) All roads within the mobile home park shall be constructed to Town road standards. Pedestrian walkways shall also be provided to provide access within the mobile home park.
- (5) At minimum, a suitable nonporous pad at least four (4) inches thick shall be provided for each mobile home lot.
- (6) Sewage disposal and water supply are to be supplied and maintained by the park owner and shall comply with Section 5.14. All electric, telephone and other utility lines shall be buried underground. Community garbage facilities should be screened by fencing or landscaping on three sides.
- (7) At least fifteen (15%) percent of the total land area shall be reserved and maintained for common recreational use. Conditions with regard to the ownership, use and maintenance of such land shall be imposed as appropriate. This requirement may be reduced or waived if a central recreation building or other developed recreational facility of sufficient size to accommodate simultaneous use by the occupants of the park is provided. In addition, if the mobile home park is approved as a

PUD, the mobile home park shall meet the open space requirements in Section 3.3.

- (8) A minimum of two parking spaces per mobile home lot shall be provided. Each parking space shall be at least nine (9) feet by eighteen (18) feet.

### **Section 6.11 - Public Facilities**

(A) Pursuant to the Act [Section 4413], Public Facilities shall be regulated only with respect to location, size, height, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping and screening requirements, and only to the extent that the applicable regulations, including conditional use standards, do not have the effect of interfering with the intended functional use of:

- (1) State or community owned and operated institutions and facilities;
- (2) Public and private schools and other educational institutions certified by the Vermont Department of Education;
- (3) Churches, other places of worship, convents, and parish houses;
- (4) Public and private hospitals;
- (5) Regional solid waste management facilities certified by the state; and
- (6) Hazardous waste management facilities for which a notice of intent to construct has been received under state law [10 V.S.A. Section 6606a].

(B) In addition to the conditional use review criteria under Section 3.2, the following additional standards shall be considered:

- (1) Unsightly areas such as parking lots and refuse collection areas shall be screened with landscaping materials.
- (2) Adequate circulation, parking, and loading facilities shall be provided in accordance with Section 7.2 with particular consideration given to visibility at intersections, traffic flow and control, pedestrian safety, and access in case of an emergency.
- (3) To protect the privacy of adjoining property owners, additional yard space or increased setbacks from the property line may be required in addition to that established for the particular district or use.
- (4) The density, size, and height, of buildings may be increased or decreased as needed, in conformance with district and use requirements, to ensure compatibility with established patterns of land use.
- (5) Other applicable provisions of these regulations, including but not limited to outdoor lighting standards (Section 5.9), performance standards (Section 5.10) and wastewater disposal standards (Section 5.14) shall apply.

### **Section 6.12 - Salvage Yards**

(A) New or expanded commercial salvage yards may be permitted within designated zoning districts



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subject to review and approval by the Fletcher Select Board under separate State Statute [24 V.S.A., Chapter 61, and Subchapter 10 Section], conditional use review under Section 3.2, and the following provisions:

- (1) A minimum of three (3) contiguous acres shall be required for new yards. No yard shall exceed ten (10) acres in area or extent.
- (2) Salvage yards shall be set back at least one hundred (100) feet from all property lines, road rights-of-way, surface waters, and wetlands.
- (3) Salvage yards shall be screened year-round from public view; additional landscaping, fencing or other forms of screening may be required as appropriate.
- (4) Salvage yards shall be secured as necessary to protect public health, safety, welfare, and neighboring properties.
- (5) Exterior lighting shall be the minimum required for security and safe operation; general lighting standards under Section 5.9 shall apply.
- (6) All performance standards under Section 5.10 shall apply.
- (7) The on-site storage of materials shall not adversely affect surface, ground or drinking water supplies in the vicinity of the yard.
- (8) Conditions and limitations may be imposed with regard to traffic generated, hours of operation, and the on-site storage of hazardous materials in order to protect neighboring properties, public infrastructure including roads, and the character of the area in which the yard is located.
- (9) All materials shall be removed from the site within twelve (12) months of the cessation or abandonment of operations; and the site shall be restored to a safe, usable condition. Site restoration, including the clean up and disposal of hazardous materials, shall be subject to all applicable state and federal regulations. A site restoration plan shall be required.

### **Section 6.13 - Land Filling, Extraction and Quarrying**

(A) **Land Filling:** Any major land filling operation which would cause a substantial change in the rate or direction of drainage shall be permitted only upon approval by the Development Review Board, subject to conditional use review under Section 3.2. The Board shall consider existing and proposed grades and the materials to be used; and may impose appropriate conditions and safeguards to minimize any undue adverse effects (see Figure 3.2) on-site or to other properties, with respect to the following:

- (1) Drainage, runoff, and the potential for erosion and/or siltation;
- (2) Ground and surface waters;
- (3) Roads, culverts, bridges and other infrastructure;

(B) **Extraction and Quarrying:** The removal or extraction of topsoil, rock, sand, gravel or other similar material for commercial purposes, except where incidental to or in connection with the construction of a structure or other allowed use, may be permitted in designated districts subject to conditional use review under Section 3.2. Approval is also subject to DRB findings that the proposed operation shall not cause any hazard to public health and safety, or undue adverse effects (see Figure 3.2) upon

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neighboring properties, property values, public facilities and services, and surface and ground water supplies.

- (1) **Application Requirements:** The application for conditional use permits under this Section shall include erosion control and site reclamation plans showing existing grades, drainage and depth to water table; the extent and magnitude of the proposed operation including proposed project phasing; and finished grades at the conclusion of the operation.
- (2) **Standards.** In granting approval, the Development Review Board may consider and impose conditions with respect to the following factors:
  - a. Depth of excavation or quarrying;
  - b. Slopes created by removal (Section 5.11(A) shall not apply to grades created by extraction and quarrying);
  - c. Effects on surface drainage on and off-site;
  - d. Storage of equipment and stockpiling of materials on-site;
  - e. Hours of operation for blasting, trucking, and processing operations;
  - f. Effects on neighboring properties due to noise, dust, or vibration;
  - g. Effects on traffic and road conditions, including potential physical damage to public highways;
  - h. Creation of nuisances or safety hazards;
  - i. Temporary and permanent erosion control;
  - j. Effect on ground and surface water quality, and drinking water supplies;
  - k. Public safety and general welfare; and
  - l. Site reclamation.
- (3) **Surety Requirement:** In accordance with the Act [Section 4464(b)(2)] a performance bond, escrow account, or other surety acceptable to the Select Board shall be required to ensure reclamation of the land upon completion of excavation projects, to include any re-grading, re-seeding, re-forestation or other reclamation activities that may be required. Upon any failure of the permit holder, their successors, or assigns to complete site reclamation as required, the town may take legal action as appropriate to ensure site reclamation and cost recovery.

### **Section 6.14 - Telecommunication Facilities**

- (A) **Applicability.** New or expanded telecommunication facilities that **are not** subject to 30 V.S.A. Section 248a, 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 DRB may permit new or expanded telecommunications facilities if the DRB finds that the facility will impose not more than a *de minimus* impact on all applicable standards in these regulations.

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- (1) Notwithstanding the requirements of Subsection (A), wireless telecommunications equipment subject to this section to be mounted on existing towers, utility poles, silos, steeples or other existing structures may be permitted by the Zoning Administrator without conditional use approval provided that:
  - a. No changes are made to the height or appearance of such structure except as required for mounting;
  - b. The height of the antenna as mounted does not exceed maximum district height requirements under Article V;
  - c. No panel antenna shall exceed 72 inches in height or 24 inches in width;
  - d. No dish antenna shall exceed 3 feet in diameter; and
  - e. Any accompanying equipment shall be screened from view.
- (2) A Certificate of Public Good from the Public Service Board under 30 V.S.A. Section 248a preempts these regulations and may be required for the construction or installation of telecommunications facilities that are to be interconnected with other telecommunications facilities proposed or already in existence. The Public Service Board determines jurisdiction.

(B) **Exemptions.** The following are considered to be *de minimis* alterations and are specifically exempted from the provisions of this Section and no zoning permit shall be required:

- (1) Placement of an antenna used to transmit, receive, or transmit and receive communications signals on that property owner's premises if the area of the largest face of the antenna is not more than 15 square feet, and if the antenna and any mast support do not extend more than 12 feet above the roof of that portion of the building to which the mast is attached.
- (2) Antenna structures less than twenty (20) feet in height with a primary function to transmit or receive communication signals for commercial, industrial, municipal, county, or state purposes.
- (3) Telecommunication facilities that are used exclusively for municipal radio dispatch service or emergency radio dispatch service and which do not exceed 100 feet in height.
- (4) A single ground or building mounted radio or television antenna or satellite dish not exceeding 36 inches in diameter which is intended solely for residential use, and does not, as mounted, exceed 40 feet in height above the lowest grade at ground level.
- (5) All citizens band radio antennae or antennae operated by a federally licensed amateur radio operator which do not exceed a height of 50 feet above the grade level, whether free standing or mounted, and which meet all setback requirements for the district in which they are located.

(C) **Supplemental Application Requirements.** In addition to the application requirements set forth in Article 3.2, applications for new towers shall also include the following:

- (1) A report from a qualified and licensed professional engineer which describes tower height, construction design and capacity, including cross-sections, elevations, potential mounting locations, and fall zones.

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- (2) Information regarding the availability of existing towers and buildings located within the service area of the proposed site, including written documentation from other facility owners within the area that no suitable sites for the proposed facility are available at existing facilities.
- (3) A letter of intent committing the tower owner and his/her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
- (4) Written documentation that the proposed tower shall comply with all requirements of the Federal Communications Commission, and the Federal Aviation Administration.
- (5) Any additional information needed to determine compliance with the provisions of these regulations.

**(D) Construction Standards.** Telecommunications facilities shall conform to the following construction standards:

- (1) The facility shall not be built on speculation. If the applicant is not a telecommunication service provider, the applicant shall provide a copy of a contract or letter of intent showing that a telecommunication service provider is legally obligated to locate a wireless telecommunication facility on lands owned or leased by the applicant.
- (2) All towers, including antennae, shall be less than 200 feet in height as measured from the lowest grade at ground level to the top of the highest structure or component.
- (3) All telecommunication facilities shall comply with the setback provisions of the zoning districts in which facilities are located. Notwithstanding the above, in order to ensure public safety, the minimum distance of any wireless telecommunication facility to any property line, dwelling, or occupied structure shall be no less than the height of the tower, including antennas or other vertical appurtenances. This setback shall be referred to as a fall zone. In the event that an existing structure such as a barn silo, church steeple, or utility pole is proposed as a mounting for a wireless telecommunication facility, a fall zone setback may not be required.
- (4) The facility will not be illuminated by artificial means and will not display any lights or signs except for such lights and signs as required by Federal Aviation Administration, federal or state law, or these Regulations.
- (5) The DRB may require the applicant to provide a bond, or other form of financial guarantee acceptable to the DRB, to cover the cost of removal of the facility, should the facility be abandoned or cease to operate.
- (6) The applicant demonstrates that the facility will be in compliance with all FCC standards and requirements regarding radio frequency radiation. The owner of a wireless telecommunication facility shall, on a yearly basis, file a certificate to the Zoning Administrator showing that it is in compliance with all FCC standards and requirements regarding radio frequency radiation, and that adequate insurance has been obtained for the facility.
- (7) The facility will be properly identified with appropriate warnings indicating the presence of radio frequency radiation.
- (8) The proposed equipment is installed on an existing wireless telecommunication facility, unless it is demonstrated by the applicant that such co-location is not structurally or spatially possible.

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- (9) The facility provides reasonable opportunity for the installation and operation of other telecommunications equipment (co-location).
  - (10) Unless otherwise approved by the DRB, 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 DRB 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 DRB may cause the facility to be removed. The costs of removal shall be assessed against the facility owner.
  - (11) Unused portions of a wireless telecommunication facility shall be removed within 1 year of the time that such portion is no longer used. Replacement of portions of a facility previously removed shall require a new permit.
- (E) **Additional Conditional Use Criteria.** In addition to the Conditional Use Standards in Section 3.3 and the construction standards in (F) above, the DRB shall approve an application for a wireless telecommunications facility when it finds that the application does not impose more than a *de minimus* impact on the following criteria:
- (1) New towers shall be sited and designed to minimize their visibility. New or modified towers and antennae shall be designed to blend into the surrounding environment to the greatest extent feasible, through the use of existing vegetation, landscaping and screening, the use of compatible materials and colors, or other camouflaging techniques.
  - (2) Access roads, and all accessory utility buildings and structures shall be designed to aesthetically blend in with the surrounding environment and meet all other minimum requirements for the district in which they are located. Ground-mounted equipment shall be screened from view. Setback, landscaping and screening requirements may be increased as appropriate based on site conditions, and to protect neighboring properties and uses. All utilities proposed to serve a telecommunications site shall be installed underground.

## Article VII. Planning and Design Standards

### Section 7.1 – Application of Standards

- (A) **Applicability.** The Development Review Board shall evaluate all applications requiring conditional use, Planned Unit Development, boundary line adjustment, minor subdivision, or major subdivision approval in accordance with the procedures and standards set forth below.

### Section 7.2 - Parking, Loading and Service Area Requirements

- (A) **Applicability.** The following parking standards shall apply to all uses in the Town of Fletcher. Adequate provision shall be made so that normal vehicular traffic associated with any use may be parked off of public roads and rights-of way. Whenever any new use is established, or when the present use is expanded or changed, parking spaces shall be provided to meet these standards:
- (B) **Standards.**
- (1) 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. Required parking spaces should have a minimum width of nine (9) feet, and a minimum length of eighteen (18) feet.
  - (2) Parking areas with two-way traffic shall have an aisle width of at least 24 feet. Parking areas with one-way traffic shall have an aisle width of at least 15 feet.
  - (3) A minimum number of parking spaces as determined by proposed use shall be provided in accordance with the requirements listed in Table 7.1:

<b>Table 7.1 Minimum Off-Street Parking Requirements</b>	
<b>Use</b>	<b>Parking Spaces</b>
Residential	2 per dwelling unit
Accessory dwelling	1 per dwelling unit
Home Occupation/Cottage Industry	2 per dwelling unit, and 1 per additional employee
Bed and Breakfast	2 per dwelling unit, and 1 per lodging room
Home Day Care	2 per dwelling unit, and 1 per additional employee
School, Child or Day Care (6 or more children)	3 spaces per 10 children enrolled
Medical Clinics/Offices	6 per professional
Lodging (hotel, motel, inn, lodge)	1 per lodging unit, and 1 per employee for the largest shift
Care Facilities (6 or more residents)	1 per 4 beds, and 1 per employee for the largest shift
Club	1 per 4 members
Public assembly (churches, auditoriums, etc.)	1 per 4 seats or 200 sq. ft. of gross floor area, whichever is

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	greater
Professional, Government, Business Offices	1 per 250 sq. ft. of gross floor area
Personal Services	1 per employee, and one per customer service station
Commercial/Retail Establishments	1 per 250 sq. ft. of gross floor area
Restaurants/Eating Establishments	1 per 4 seats, and one per employee for the largest shift
Industry	1.25 per employee, for the largest shift
Mixed/Multiple Use	total required per each individual use
Gas or Motor Vehicle Service Station	5 per service bay
Storage, warehouses, other non-public uses	1 per 1,000 sq. ft. of gross floor area, and 1 per employee
Other Use	As determined by the Development Review Board under conditional use review

- (4) The parking of motor vehicles may be allowed in setback areas unless specifically prohibited under other provisions of these regulations.
  - (5) Parking areas intended for commercial and/or public use which are adjacent to residential uses shall be set back at least twenty-five (25) feet from the nearest property line.
  - (6) The Development Review Board under conditional use review shall require all non-residential parking areas to be located to the side or rear of buildings, and screened or landscaped to minimize view from public highways and/or adjoining residential areas. This requirement can be waived if locating parking to the side or rear of buildings is prevented by topography or other physical conditions of the site.
  - (7) All off-street parking areas in excess of eight (8) parking spaces shall provide landscaped areas, which at minimum are equal to a least ten (10) percent of the total parking area, unless otherwise increased by the Development Review Board under conditional use review. Landscaped areas shall be integrated into the parking lot design, and be regularly maintained.
- (C) **Loading and Service Areas.** Where a proposed development will require the frequent or regular loading or unloading of goods, sufficient on-site service areas shall be provided. Service areas may also be required for emergency vehicles, waste disposal and collection, bus, taxi, or van service, and other purposes as may be necessitated by the proposed use. All loading and service areas shall be clearly marked and located in such a manner so that parked vehicles will not block or obstruct sight visibility at intersections or to or from any internal road or access.
- (D) **Waivers.** The Development Review Board may require additional parking and loading spaces, subject to conditional use review under Section 3.2, if it is found that the minimum standards are not sufficient to accommodate the intended use. The Development Review Board may also, subject to conditional use review or on appeal under Section 9.8, reduce on-site parking space requirements based on the Board's determination under one or more of the following provisions, that, due to circumstances unique to the development, the strict application of these standards is unnecessary.
- (1) Green areas are set aside and maintained as open space for future conversion to parking, loading or service areas in the event that the space(s) initially permitted are deemed inadequate to meet demonstrated need; and/or

- (2) Shared use of parking, loading and/or service areas on the same or contiguous lots by two or more establishments is proposed; and/or
- (3) Sufficient off-site public parking exists within reasonable walking distance of the establishment via sidewalk or pathway; and/or
- (4) The proposal is for the development of multi-family, elderly and/or affordable housing units.

### **Section 7.3 - Protection of Secondary Conservation Resources**

- (A) **Applicability.** This section shall apply to land development subject to DRB review and involving secondary conservation resources. For the purpose of these regulations, Secondary Conservation Resources shall include prime and statewide agricultural soils and other farmland, habitat blocks greater than 6000 acres (as identified by the Vermont Agency of Natural Resources), and steep slopes between fifteen percent (15%) and twenty-five percent (25%).
- (B) **Exemptions.** Land development subject to DRB review and located in the Village District shall be exempt from the standards in subsection (C).
- (C) **Review Standards.** Land development subject to this section shall not have an undue adverse effect upon secondary conservation resources. As such, the DRB shall ensure compliance with the following standards.
- (1) **Building Envelopes.** All subdivision applications that include land with any secondary conservation resources shall provide building envelopes on each lot. All building envelopes shall be delineated so that land development will limit any undue adverse effects on secondary conservation resource areas. All structures on a lot shall be constructed within the building envelope.
  - (2) **Farmland and Agricultural Soils.** Farmland and land area with prime and statewide agricultural soils shall be subject to the following provisions:
    - a. The Development Review Board may require a vegetated buffer area between existing agricultural uses and other uses to minimize land use conflicts.
    - b. The fragmentation of farmland and land area with prime and statewide agricultural soils shall be minimized.
      - i. Where sites include linear features such as tree lines, stone walls, and/or fence lines, all access roads, driveways and utility corridors shall follow such features to minimize the fragmentation of farmland and/or prime or statewide agricultural soils, unless the Development Review Board determines that doing so will cause such fragmentation. The Development Review Board may require that access roads, driveways and utility corridors share the same right-of-way.



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- ii. All structures shall be located at field or pasture edges, or if not feasible due to topographical or environmental constraints, on the least fertile soils on the lot (based on the latest NRCS soil Survey).
    - iii. For subdivision applications only, all building envelopes shall be located at field or pasture edges, or if not feasible due to topographical or environmental constraints, on the least fertile soils on the lot (based on the latest NRCS soil Survey).
  - c. Where farmland and/or prime or statewide agricultural soils are present within a subdivision, all or part of this land shall be included in any required open space.
- (3) **Steep Slopes (15%-25%).** Steep slopes between 15% and 25% grade shall be subject to the following provisions:
- a. No roads or driveways shall be located on areas identified as steep slopes between 15% and 25% grade.
  - b. If land containing steep slopes between 15% and 25% grade is to be subdivided, such areas shall be excluded from building envelopes, unless the applicant provides the DRB with an erosion control plan and the DRB finds that the plan will adequately prevent erosion.
- (4) **Habitat Blocks Greater Than 6000 Acres in Size.** Habitat Blocks greater than 6000 acres in size, as identified by the Vermont Agency of Natural Resources, shall be subject to the following provisions:
- a. If proposed land development will occur in an area identified as a habitat block greater than 6000 acres in size, a biological impact report shall be required by the DRB unless it is determined that the proposed land development is designed so that it will have little to no impact on wildlife habitat. The cost of the biological impact report shall be borne by the applicant. If required, a biological impact report shall be prepared by a consultant or other party, qualified to assess the impact of development on the biological area and shall address the following:
    - i. Total acres in the project area;
    - ii. Total acres of each habitat type in the project area;
    - iii. Location and total acreage of open space areas in the project area;
    - iv. Wildlife species known to be present or occurring on the site;
    - v. Use patterns of wildlife habitat within the project area (movement corridors, feeding areas, etc);
    - vi. Critical connections or relationships with adjoining habitats outside the project area;
    - vii. Potential impacts of the proposed project on wildlife habitat and species;
    - viii. List of proposed mitigation methods for each wildlife habitat and species; and

- ix. Any other information deemed necessary by the DRB to adequately assess the impact of the proposal on biological areas within or adjacent to the project site.

The DRB shall use the study to determine whether or not the proposed land development will have an undue adverse effect upon wildlife habitat within the habitat block (See Figure 3.2) . If an undue adverse effect is found, the DRB shall impose conditions to mitigate such effects based on recommendations from the study.

## **Section 7.4 – Roads, Driveways, and Pedestrian Access**

- (A) **Applicability of Road Standards.** The standards contained herein shall apply to all proposed public roads and to private roads serving more than four lots. In addition, these standards may be applied to existing private roads serving subdivisions when the DRB determines such standards are necessary to provide suitable access to, or accommodate anticipated future subdivision. Acceptance of private roads by the Town is subject to the approval of the Selectboard pursuant to state law for the laying out of public rights-of-way. Construction of a road(s) to these standards in no way ensures such acceptance.
- (B) **Road Design.** All roads serving proposed subdivisions shall be designed in accordance with the Fletcher Road Ordinance adopted and administered by the Select Board, and shall conform to the dimensional and geometric design standards for local roads and streets contained within the *Vermont State Standards for the Design of Transportation Construction, Reconstruction and Rehabilitation on Freeways, Roads and Streets*, dated October, 1997, or as subsequently amended. Minimum design standards include the following:
- (1) Rights-of-way for all roads shall be a minimum of fifty (50) feet in width.
  - (2) To ensure adequate safety and service, the width of travel lanes and shoulders shall be based on average daily traffic (ADT) and design (anticipated posted) speeds:

<b>Table 7.2 Minimum Lane and Shoulder Widths for Rural Roads</b>							
Design Volume (ADT)	0-25	25-50	50-100	100-400	400-1500	1500-2000	2000+
Design Speed (mph)	Width of Lane/Shoulder (ft)						
25	7/0	8/0	9/0	9/2	9/2	10/3	11/3
30	7/0	8/0	9/0	9/2	9/2	10/3	11/3
35	7/0	8/0	9/0	9/2	9/2	10/3	11/3
40	7/0	8/0	9/2	9/2	9/2	10/3	11/3
45	---	---	9/2	9/2	9/2	10/3	11/3
50	---	---	9/2	9/2	10/2	10/3	11/3

Source: *Vermont State Standards for the Design of Transportation Construction, Reconstruction and Rehabilitation on Freeways, Roads and Streets*, October 1997.

- a. Lower design and posted speeds, and narrower lanes and shoulders may be considered to avoid and/or minimize impacts to historic, architectural, scenic, natural or other resources; to avoid excess costs of construction; or to better comply with the town plan.
- b. Wider travel lanes and/or shoulders may be required as appropriate to road function (i.e., for

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collector and arterial roads), or to safely accommodate shared use by bicycles.

- (3) Dead end roads are specifically discouraged. No dead end road shall be permitted without a suitable turn around at its terminus. This may consist of a cul-de-sac with a radius of not less than thirty-five (35) feet, or a "T" or other configuration suitable to topography and adequate for emergency vehicles to turn around efficiently. Dead end roads in excess of eighteen hundred (1800) feet in length should be avoided wherever practical.
  - (4) Roads shall logically relate to topography to minimize site disturbance, including the amount of cut and fill required, and to produce usable lots, reasonable grades and safe intersections in relation to the proposed use of the land to be served by such roads. All roads shall not, in any fifty (50) foot section, exceed an average grade of fifteen percent (15%) [ex. A maximum rise of seven and a half (7.5) feet in any fifty (50) foot stretch]. Private roads exceeding five hundred (500) feet in length shall include, at a minimum, one ten (10) foot by thirty (30) foot pull-off area. All access onto public roads, including driveways and private roads, must meet the Select Board's specifications for grade, culverts, and ditching. All work within the public right-of-way shall require a Access Permit.
  - (5) Roads shall be designed and laid out to avoid undue adverse impacts (See Figure 3.2) to primary and secondary conservation resources per Sections 5.10 and 7.3 and shall provide connectivity within the village zoning district. Roads shall follow existing linear features, such as utility corridors, tree lines, hedgerows and fence lines. This requirement can be waived if such placement is prevented by topography or other physical conditions of the site.
- (C) **Road Construction Standards.** Road construction, including specifications relating to the crown, grade, sub-base and surfacing, shall conform to the Vermont Agency of Transportation's *Standard A-76*, as amended.
- (D) **Intersections.** A new or relocated road or driveway shall be located so that:
- (1) a safe sight stopping distance is provided, as determined by probable traffic speed, terrain, alignments and climatic extremes. Generally, sight distance should be eleven (11) times the speed limit (e.g., a curb cut on a road with 40 mph speed limit would require a minimum sight distance of 440 feet which provides a gap of 7.5 seconds of travel time);
  - (2) it is directly opposite an existing road or driveway to form a four-way intersection when possible. Intersections creating centerline offsets of less than one hundred twenty-five (125) feet shall not be permitted;
  - (3) it intersects the existing road at an angle of between seventy (70) and ninety (90) degrees;
  - (4) the intersection grade does not exceed plus or minus two (2) percent, and;
  - (5) no structure or planting is situated to impair corner visibility.
- (E) **Drainage and Storm Water.** A storm water system shall be provided which is designed to control and accommodate storm water collected on all proposed roads and/or parking areas in accordance with Section 7.6 of these regulations. Generally, roadbeds, shoulders, ditches and culverts shall be designed and maintained in conformance with the *Vermont Better Backroads Manual*, as most recently amended.
- (F) **Coordination with Adjoining Properties.** The arrangement of roads in the subdivision shall provide for the continuation of roads of adjoining subdivisions and for proper projection of roads through

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adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic and construction or extension, presently or when later required, of needed utilities and public services. Where, in the opinion of the DRB, topographic or other conditions make such continuance undesirable or impracticable; the above conditions may be modified.

- (G) **Access Permits.** All road access shall be subject to the approval of the Vermont Agency of Transportation in the case of state highways and the Road Commissioner in the case of Town roads. Access to all lots created by subdivision of any such parcel and to all buildings or other land development located thereon shall be only from such permitted access road or driveway.
- (H) **Access Management.** To better manage traffic flow and safety, avoid congestion and frequent turning movements, preserve the carrying capacity of important travel corridors, and to avoid strip development, the following access management standards shall apply:
- (1) Subdivision lots shall be served by shared driveways and/or internal development roads providing access to multiple lots. The number of access points onto public roads from existing parcels shall be limited to no more than two (2) access roads or driveways for the first one thousand (1000) feet, or fraction thereof, of frontage on such road, and one (1) additional access road or driveway for each additional six hundred (600) feet or fraction thereof of such frontage.
  - (2) If a subdivision has frontage on class 2 and class 3 roads, access shall be from the secondary road unless the DRB determines that topographic or traffic safety conditions make such an access impracticable.
- (I) **Upgrades to Existing Roads.** Where an existing access road is inadequate or unsafe, the DRB may require the applicant to upgrade the access road to the extent necessary to serve additional traffic resulting from the subdivision and to conform to these standards. In situations where a development may require realignment, widening or otherwise increasing the capacity of an existing road, or where the Town Plan or Capital Program indicates that such improvements may be required in the future, the applicant may be required to reserve land for such improvements. In the case of subdivisions requiring construction of new roads, any existing road that provides either frontage to new lots or access to new roads shall meet these standards. If improvements to existing town roads are required, the DRB may impose a condition in consultation with the Selectboard requiring the applicant to contribute all or a portion of the expense.
- (J) **Road Names and Signs.** Public and private roads shall be named in accordance with the Fletcher Road Naming Ordinance, and shall have specific historic, cultural or geographical relevance. Said names shall be identified on signs designed and located in accordance with the Town policy, and shall be clearly depicted on the final plat.
- (K) **Driveways.** All driveways serving individual lots generally shall comply with the Vermont Agency of Transportation's *Standard B-71* for residential and commercial driveways, as most recently amended. In addition:
- (1) Driveways shall be accessible by emergency service vehicles, and shall logically relate to topography so as to ensure reasonable grades and safe intersections with public or private roads. Maximum grade should not exceed fifteen (15) percent. For driveways in excess of five hundred (500) feet in length, there shall be at least one 10 foot x 30 foot turnout required to allow for passing vehicles.
  - (2) Driveways shall be laid out to follow existing linear features, such as utility corridors, tree lines, hedgerows and fence lines.

- (3) The use of common or shared driveways is encouraged and may be required to in order to minimize the number of access points in accordance with Subsection (G).
- (L) **Pedestrian Access.** The DRB may require pedestrian rights-of-way to facilitate pedestrian circulation within the subdivision and to ensure access to adjoining properties or uses or public facilities. The DRB may require perpetual unobstructed easements at least twenty (20) feet in width in order to facilitate pedestrian access from a subdivision to schools, parks, playgrounds, or other nearby roads. Easements shall be indicated on the plat.
- (M) **Modification of Road and Driveway Standards.** In the case of unusual topographic conditions or other circumstances which would make the strict adherence to these standards a substantial hardship, the DRB may modify the strict application of one or more of these standards providing the applicant can demonstrate that the proposed road is accessible by emergency response vehicles, does not pose any threat to the safety of motorists or pedestrians, will not result in unreasonable maintenance requirements for landowners or the Town of Fletcher, and is designed in a manner that is consistent with other applicable standards of these regulations.
- (N) **Legal Requirements.**
  - (1) Every subdivision plat shall show all proposed road and pedestrian rights-of-way, as required under these regulations, regardless of whether the proposed right-of way is intended to be accepted by the Town Selectboard. In the event that the right-of-way is not intended for acceptance by the Town Selectboard, the mechanism by which the right-of-way is to be maintained, owned and/or conveyed shall be clearly documented.
  - (2) Documentation and assurance shall be provided that all proposed roads and rights-of-way will be adequately maintained either by the applicant, a homeowners' association or through other legal mechanism. Such documentation shall be in a form approved by the DRB and filed in the Fletcher Land Records.

### **Section 7.5 - Site Protection and Erosion Control**

- (A) **Adequacy of erosion control.** All applications requiring DRB approval are subject to the following standards:
  - (1) Development will fit the topographic, soil and vegetation characteristics of the site with a minimum of clearing and grading.
  - (2) Existing natural drainage patterns will be preserved wherever possible.
  - (3) The sequence of construction activities will 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 vegetative and structural control measures.
  - (4) Seed and mulch will be applied as soon as possible to disturbed soils.
  - (5) Disturbance should be avoided as much as possible between October 15 and May 1.
- (B) **Erosion and Sediment Control Plan.** All areas exposed during construction shall be protected in accordance with standards contained in the Low Risk Site Handbook for Erosion Prevention and Sediment Control published by the Vermont Department of Environmental Conservation, Agency of

Natural Resources, including any updated versions of this publication. An erosion control plan shall be required for all applications requiring DRB approval, except for those applications specifically exempted under Section 4.2 –Subdivision Application Requirements.

## **Section 7.6 - Stormwater Management**

(A) **Applicability.** Where approval from the DRB is required, all project applications shall indicate how stormwater will be managed. A stormwater management plan shall be provided, unless waived by the Development Review Board if it is clear that stormwater management is not an issue on site. The plan shall show all natural and constructed drainage ways and detention areas, both existing and proposed, in addition to how drainage from the site might impact properties downstream.

(B) **General Standards.**

- (1) Stormwater runoff shall be directed to existing separate drainage facilities where they exist on site.
- (2) New swales, ponds, or other effective management techniques shall be incorporated into the site design to prevent any runoff from reaching adjacent properties or causing unsafe conditions on the project site. Natural watercourses and drainage ways shall be incorporated into the design of drainage systems to the fullest extent possible.
- (3) The best available technology shall be used to minimize stormwater runoff, increase on-site infiltration, encourage natural filtration functions, simulate natural drainage systems, and minimize discharge of pollutants to ground and surface water. Best available technology may include measures such as:
  - a. Detention basins or ponds;
  - b. Recharge trenches or swales;
  - c. Bio-retention areas or rain gardens that collect runoff and allow for short-term ponding and slow infiltration;
  - d. Minimizing the use of impervious surfaces;
  - e. Vegetative and landscaping controls that intercept the path of surface runoff;
  - f. Dry wells consisting of gravel or stone-filled pits to catch water from roof downspouts or paved areas;
  - g. Permeable pavement or pavers that allow stormwater to seep through into the ground;
  - h. Rain barrels and cisterns of various sizes that store runoff conveyed through building downspouts; and/or
- (4) Stormwater drainage shall not flow onto adjacent properties. Failure to maintain natural and/or engineered on-site systems as part of an approved development will be considered a violation.

## **Article VIII      Flood Hazard Review**

### **Section 8.1 - Statutory Authorization and Effect**

- (A) In accordance with 10 V.S.A. Chapter 32, and 24 V.S.A. Chapter 117 §4424, §4411 and §4414, there is hereby established an article for areas at risk of flood damage in the Town of Fletcher, Vermont. Except as additionally described below, all administrative procedures follow municipal procedures under 24 VSA Chapter 117.

### **Section 8.2 - Statement of Purpose**

- (A) It is the purpose of this article to:

- (1) Implement the goals, policies, and recommendations in the current municipal plan;
- (2) Avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding;
- (3) Ensure that the selection, design, creation, and use of development is reasonably safe and accomplished in a manner that is consistent with public wellbeing and does not impair flood plain services or the stream corridor;
- (4) Manage the flood hazard area designated pursuant to 10 V.S.A. Chapter 32 § 753, the municipal hazard mitigation plan; and make the Town of Fletcher, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

### **Section 8.3 - Other Provisions**

- (A) **Precedence of Bylaw.** The provisions of this flood hazard article 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.
- (B) **Warning of Disclaimer of Liability.** This article does not imply that land outside of the areas covered by this article will be free from flood damage. This regulation shall not create liability on the part of the Town of Fletcher, 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.

### **Section 8.4 - Lands to Which These Regulations Apply**

- (A) **Regulated Flood Hazard Areas.** These regulations shall apply to the Special Flood Hazard Area in and 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. Such areas shall be shown on the Official Zoning Map for the Town of Fletcher as the Flood Hazard Area Overlay District (FHAOD). The location of the boundary shall be determined by the Zoning Administrator

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(ZA). If the applicant disagrees with the determination made by the ZA, a Letter of Map Amendment obtained by the applicant from FEMA shall constitute proof regarding whether a property is located inside or outside of the Special Flood Hazard Area.

- (B) **Base Flood Elevations and Floodway Limits in Special Flood Hazard Areas.** Where available, base flood elevations and floodway limits provided by the National Flood Insurance Program and in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations. In Special Flood Hazard Areas where base flood elevations and/or floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, it is the applicant's responsibility to develop the necessary data. Where available, the applicant shall use data provided by FEMA, or State, or Federal agencies.

### **Section 8.5 - Development Review in Flood Hazard Areas**

- (A) **Purpose.** The hazard areas are not appropriate sites for new structures nor for development that increases the elevation of the base flood.
- (B) **Permit.** A permit is required from the Zoning Administrator for all development in all areas defined in Section 8.4. Development that requires conditional use approval, non-conforming use approval, or a variance from the Development Review Board (DRB) under these flood hazard regulations, must have such approvals prior to the issuance of a permit by the ZA. Any development subject to municipal jurisdiction in the designated hazard areas shall meet the criteria in Section 8.5, Section 8.6 and any other applicable standards in this bylaw. Any permit issued will require that all other necessary permits from State or Federal Agencies have been received before work may begin.

- (C) **Use Table.**

<b>Table 8.1 -Flood Hazard Area Uses</b>		
Activity	Hazard Zone	
	<b>Special Flood Hazard Area</b>	<b>Floodway</b>
<b>P</b> Permitted <b>C</b> Conditional Use Review <b>X</b> Prohibited <b>E</b> Exempted		
New Structures	X	X
Storage	X	X
Non-substantial Improvements to Existing Structures	P	C
Substantial Improvements to Existing Structures	C	C
Small Accessory Structures	P	X
At Grade Parking	P	C
Replacement water supply or septic systems	C	C
Fill as needed to elevate existing structures	C	C
Fill	X	X
Grading	C	C
Road maintenance	E	E
Road improvements	C	C
Bridges and culverts	C	C
Channel management	C	C
Shoreline Stabilization Methods	C	C
Recreational vehicles	P	P
Open space, recreation	E	E



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Forestry	E	E
Agriculture	E	E

- (D) **Variances.** Variances may be granted in writing by the DRB only in accordance with all the criteria in 24 V.S.A. § 4469, § 4424 (E), and 44 CFR Section 60.6, after a public hearing noticed as described in Section 9.9.

Any variance issued in the Special Flood Hazard Area shall not increase flood heights. The Zoning Administrator shall inform the applicant in writing 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.

- (E) **Non-Conforming Uses and Structures.** The DRB may, after public notice and a conditional use hearing, approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a flood hazard area provided that:

- (1) The proposed development is in compliance with all the Development Standards in Section 8.6;
- (2) A nonconforming structure that is substantially damaged or destroyed may be reconstructed only in circumstances when the structure cannot be relocated to a less hazardous location on the parcel. The lowest floor of the reconstructed structure must be rebuilt to one foot or more above the base flood elevation, and the structure must otherwise comply with all requirements of the National Flood Insurance Program;
- (3) An individual manufactured home lot in an existing manufactured home park that is vacated shall not be considered a discontinuance or abandonment of nonconformity. Replacement manufactured homes must be placed so as to meet the development standards in this bylaw.

### **Section 8.6 - Development Standards**

- (A) The criteria below are the minimum standards for development in the flood hazard areas. Where more than one zone or area is involved, the most restrictive standard shall take precedence.

(1) **Special Flood Hazard Area.**

a. *All development* shall be:

- i. Reasonably safe from flooding;
- ii. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
- iii. Constructed with materials resistant to flood damage;
- iv. Constructed by methods and practices that minimize flood damage;
- v. 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;

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- vi. Adequately drained to reduce exposure to flood hazards;
  - vii. Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and,
  - viii. Required to locate any fuel storage tanks (as needed to serve an existing building in the Special Flood Hazard Zone) a minimum of one foot above the base flood elevation and be securely anchored to prevent flotation; or storage tanks may be placed underground, if securely anchored as certified by a qualified professional.
- b. In Zones AE, AH, and A1 – A30 *where base flood elevations and/or floodway limits 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 base flood elevation 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.
- c. *Structures to be substantially improved* in Zones A, A1-30, AE, and AH shall be located such that the lowest floor is at least one foot above base flood elevation, this must be documented, in as-built condition, with a FEMA Elevation Certificate;
- d. *Non-residential structures to be substantially improved* shall:
- i. Meet the standards in Section 8.6(A)(1)(c); or,
  - ii. Have the lowest floor, including basement, together with attendant utility and sanitary facilities be designed so that two feet above 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; A permit for flood proofing 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.
- e. *Fully enclosed areas below grade* on all sides (including below grade crawlspaces and basements) are prohibited.
- f. *Fully enclosed areas that are above grade*, below the lowest floor, below base flood elevation and subject to flooding, shall
- i. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and,
  - ii. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings on two walls 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.

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Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

- g. *Recreational vehicles* must be fully licensed and ready for highway use;
- h. A *small accessory* structure of 500 square feet or less that represents a minimal investment need not be elevated to the base flood elevation in this area, provided the structure is placed on the building site so as to offer the minimum resistance to the flow of floodwaters and shall meet the criteria in Section 8.6(A)(1)(f) (above).
- i. *Water supply systems* shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- j. *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.
- k. *On-site waste disposal systems* shall be located to avoid impairment to them or contamination from them during flooding.
- l. *The flood carrying and sediment transport capacity* within the altered or relocated portion of any watercourse shall be maintained, and any alteration or relocation shall not result in any decrease of stream stability;
- m. *Bridges and culverts*, which by their nature must be placed in or over the stream, shall have a stream alteration permit from the Agency of Natural Resources where applicable.
- n. *Subdivisions and Planned Unit Developments* must be accessible by dry land access outside the special flood hazard area.
- o. *Existing buildings, including manufactured homes, to be substantially improved in Zone AO* shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least as high as the base flood depth number specified on the community's FIRM, or at least two feet if no depth number is specified.

### (2) **Floodway Areas.**

- a. Encroachments or development above grade and less than one foot above the base flood elevation, are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a registered professional engineer, certifying that the proposed development will:
  - i. Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood;
  - ii. Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.
- b. Public utilities may be placed underground, and the above analyses may be waived, where a registered professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.

## **Section 8.7 - Administration**

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### (A) **Application Submission Requirements.** Applications for development shall include:

- (1) A site plan that depicts the proposed development, all water bodies, Special Flood Hazard Areas, floodways, any existing and proposed drainage, any proposed fill, and pre and post development grades, and the elevation of the proposed lowest floor, as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps;
- (2) A Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet shall identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the municipal permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the ZA and attached to the permit before work can begin;

### (B) **Referrals.**

- (1) Upon receipt of a complete application for a substantial improvement or new construction the ZA shall submit a copy of the application and supporting information to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, in accordance with 24 V.S.A. § 4424. A permit may be issued only following receipt of comments from the Agency, or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner. The Board should consider comments from the NFIP Coordinator at ANR.
- (2) If the applicant is seeking a permit for the alteration or relocation of a watercourse, copies of the application shall also be submitted to the adjacent communities, the Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. Copies of such notice shall be provided to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation. A permit may be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Vermont Agency of Natural Resources, whichever is sooner.

### (C) **Records.** The Zoning Administrator shall properly file and maintain a record of:

- (1) All land use decisions and permits issued for properties located in the Special Flood Hazard Area;
- (2) Elevation Certificates with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) of the lowest floor, including basement, of all new or substantially improved buildings (not including accessory buildings) in the Special Flood Hazard Area ;
- (3) All flood proofing and other certifications required under this regulation; and,
- (4) All decisions of the Board (including variances and violations) and all supporting findings of fact, conclusions and conditions.

### (D) **Definitions.** Definitions specific to development in the Special Flood Hazard Area are found in Section 10.3.

## **Section 8.8 - Certificate of Occupancy**

- (A) In accordance with Chapter 117 §4449, it shall be unlawful to use or occupy, or permit the use or occupancy of any land or structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure within Special Flood Hazard Area until a certificate of occupancy is issued therefore by the Zoning Administrator, stating that the proposed use of the structure or land conforms to the requirements of these bylaws. A certificate of occupancy is not required for structures that were built in compliance with the bylaws at the time of construction and have not been improved since the adoption of this bylaw.

### **Section 8.9 - Enforcement and Penalties**

- (A) This bylaw shall be enforced under the municipal zoning bylaw in accordance with 24 VSA § 1974a, § 4451, and § 4452, and Section 9.10 of these regulations. A copy of all notices of violation shall be mailed the State NFIP Coordinator.
- (B) If any appeals have been resolved, but the violation remains, the ZA shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the property pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.
- (C) Violations of the Accepted Agricultural Practices shall be enforced under this Section as violations of this bylaw. Such violations shall also be immediately reported to the Secretary of Agriculture for enforcement under 6 V.S.A. Section 4812.

## Article IX. Administration and Enforcement

### Section 9.1 - Zoning Administrator

- (A) **Appointment:** These regulations shall be administered and enforced by a Zoning Administrator appointed in accordance with the Act [Section 4448] for a term of three (3) years by the Select Board. The Zoning Administrator shall work under the supervision of the Planning Commission, and may be removed from office at any time for just cause by the Select Board, after consultation with the Planning Commission. The Zoning Administrator shall be compensated out of the General Fund in an amount and schedule established by the Select Board.
- (B) **Duties:** The Zoning Administrator shall administer and enforce these regulations literally, and shall not have the power to permit land development which is not in conformance with these regulations. The Zoning Administrator may make reasonable inspections as he or she deems necessary to determine compliance, and shall make a full and accurate record, available to the public, of all applications and fees received, permits issued and denied, and violations reported. In addition, the Zoning Administrator will:
- (1) prepare and provide interested persons with forms required to obtain any municipal permit or other municipal authorization required under these regulations, or any other laws and ordinances that relate to the municipal regulation of land development;
  - (2) Coordinate a united effort on behalf of the Town in administering its development review programs; and
  - (3) Inform any person applying for municipal permits or authorizations that the person also should contact the regional permit specialist employed by the Vermont Agency of Natural Resources in order to assure timely action on any related state permits that may be required.
- (C) **Acting Zoning Administrator:** In the absence or disability of the Zoning Administrator, an acting Zoning Administrator may be appointed by the Select Board and empowered in the same manner as provided in subsections (A) and (B) above.

### Section 9.2 - Development Review Board

- (A) **Appointments:** A Development Review Board (DRB) shall be appointed by the Select Board in accordance with the Act [Section 4460]. The Development Review Board shall constitute five (5) members and their terms of office shall be determined by the Select Board. Vacancies shall be filled by the Select Board for unexpired terms and upon the expiration of terms, unless otherwise provided for in accordance with the Act [Section 4460]. Members may be removed for cause by the Select Board upon written charges after a public hearing is held.
- (B) **Alternates:** Alternates shall be appointed by the Select Board for a specified term to serve in situations where one or more members are disqualified or are otherwise unable to serve.
- (C) **Duties:** In accordance with the Act [Subchapter 10], the Development Review Board shall have the following powers and duties:
- (1) to elect officers, and establish and apply rules of procedure, subject to the Act [Section 4461] and Vermont's open meeting laws [1 V.S.A., Sections 310-314];

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- (2) To employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services;
- (3) To hear and decide appeals including, without limitation, any appeal alleging an error committed by the Zoning Administrator under Section 9.8;
- (4) To hear and decide appeals for variances from the provisions of these regulations under Section 9.9;
- (5) To hear and decide applications for conditional uses under Section 3.2;
- (6) To examine or cause to be examined any property, maps, books, or records bearing on matters connected with any proceeding under these regulations;
- (7) To request, in association with the review of proposed development, additional studies to be supplied and paid for by the applicant;
- (8) To make permanent, written record of all findings of fact and conclusions of law for all matters heard and decided by the Development Review Board;
- (9) To hear and decide upon requests for access approval under Section 5.1;
- (10) To consider and act upon applications for Planned Unit Developments (PUDs) under Section 3.3;
- (11) To consider and act upon applications for subdivision approval in accordance with the Article IV;
- (12) To impose reasonable conditions and safeguards as it deems appropriate and necessary, in accordance with the provisions of these regulations;

### **Section 9.3 - Planning Commission**

- (A) **Appointment:** A Planning Commission shall be appointed by the Select Board unless otherwise provided for in accordance with the Act [Sections 4321-4323]. The number of members shall be determined by the Select Board. Members shall have terms of office of three (3) years, and vacancies shall be filled by the Select Board for unexpired terms and upon the expiration of terms, unless otherwise provided for in accordance with the Act [Section 4323]. Members may be removed for cause at any time by a unanimous vote of the Select Board upon written charges being filed, and after a public hearing is held.
- (B) **Alternates:** Alternates may be appointed by the Select Board to serve where one or more members are disqualified or are otherwise unable to serve.
- (C) **Duties:** In accordance with the Act [Sections 4323, 4325], the Planning Commission shall have the following powers and duties pertaining to the amendment and administration of these regulations:
- (1) Prepare a plan and amendments thereof for consideration by the Select Board and to review any amendments thereof initiated by others as set forth in subchapter 5 of the Act;
  - (2) Prepare and present to the legislative body proposed bylaws and make recommendations to the legislative body on proposed amendments to such bylaws as set forth in subchapter 6 of the Act;
  - (3) Undertake capacity studies and make recommendations on matters of land development,

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transportation, economic and social development, beautification and design improvements, historic and scenic preservation, the conservation of energy and the development of renewable energy resources and wetland protection. Data gathered by the planning commission that is relevant to the geographic information system established under 3 V.S.A. § 20 shall be compatible with, useful to, and shared with that system;

- (4) Prepare and present to the legislative body recommended building, plumbing, fire, electrical, housing, and related codes and enforcement procedures, and construction specifications for streets and related public improvements;
- (5) Prepare and present a recommended capital budget and program for a period of five years, as set forth in section 4440 of this title, for action by the legislative body, as set forth under section 4443 of this title;
- (6) Hold public meetings;
- (7) Require from other departments and agencies of the municipality such available information as relates to the work of the planning commission;
- (8) In the performance of its functions, enter upon land to make examinations and surveys;
- (9) Participate in a regional planning program in coordination with the Select Board;
- (10) Retain staff and consultant assistance in carrying out its duties and powers in coordination with the Select Board;
- (11) Undertake comprehensive planning, including related preliminary planning and engineering studies;
- (12) Perform such other acts or functions as it may deem necessary or appropriate to fulfill the duties and obligations imposed by, and the intent and purposes of 24 V.S.A. Chapter 117.

### **Section 9.4 - Fees for Zoning Permits, Public Hearings and Administration**

- (A) **Applicability.** Upon submission of an application for a Zoning Permit or DRB approval, the applicant shall pay application fee(s) as established by the Selectboard.
- (B) **Standard Fees.** Such fee(s) shall include the costs of publication, public hearings, site visits, and for periodic inspections by town employees or consultants during the installation of public improvements. Fees will be collected by the office of the Zoning Administrator and must be paid for applications under these Regulations to be considered complete. Fees are non-refundable.
- (C) **Additional Fees.** The DRB may deem it necessary to employ an engineer, attorney or other consultant during the review of an application when there is contradictory or insufficient evidence provided by the applicant pertaining to one or more standard in these regulations., All costs of such reviews shall be paid by the applicant.

### **Section 9.5 - Zoning Permit Issuance and Public Notice**

- (A) **Issuance of Permits.** Permits shall be issued in accordance with the following:

- (1) The Zoning Administrator shall not issue a zoning permit unless an application, fee and any prior



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approvals required by these regulations have been received. If the proposed land development or land use requires Development Review Board or Select Board approval, the zoning permit application shall be deemed incomplete until such time as the applicable body conducts its review and renders a decision.

- (2) All zoning permits shall be issued in conformance with Section 3.1 and all other applicable sections of these regulations.
  - (3) No construction may be initiated under a zoning permit unless and until a State Water/Wastewater Permit has been issued by the State Agency of Natural Resources. If, according to the Agency of Natural Resources, a Water/Wastewater Permit is not required, written proof of such shall be provided to the ZA by the property owner/applicant.
  - (4) Within thirty (30) days of the submission of a completed application and fee, the Zoning Administrator shall either issue or deny the zoning permit, or refer the application to the Development Review Board in accordance with the Act [Section 4449]. If the permit is denied, the Zoning Administrator shall notify the applicant in writing, stating the reason(s) for denial, and the procedure for appeal. If the Zoning Administrator fails to act with regard to a complete application for a permit within 30 days, whether by issuing a decision or by making a referral to the appropriate municipal panel, a permit shall be deemed issued on the 31st day.
- (B) **Notice of Permit and Appeals.** Pursuant to the Act [Section 4449], each zoning permit issued shall contain a statement of the period of time within which an appeal may be taken. Each permit notice is required to be posted, on a form prescribed by the municipality, within view of the public right-of-way most nearly adjacent to the subject property as well as in at least one additional public place in the municipality, and shall remain posted until the time for filing an appeal has passed.
- (C) **Administrative Requirements.** The following requirements shall be met upon the issuance of a zoning permit.
- (1) In accordance with the Act [§4449(a)], when an application for a zoning permit seeking approval of a structure is submitted, the Zoning Administrator shall provide the applicant with a copy of the applicable building energy standards under 30 V.S.A. §§ 51 (residential building energy standards) and 53 (commercial building energy standards). However, the Zoning Administrator need not provide a copy of the standards if the structure is a sign or a fence or the application certifies that the structure will not be heated or cooled. In addition, the Zoning Administrator may provide a copy of the Vermont Residential Building Energy Code Book published by the Department of Public Service in lieu of the full text of the residential building energy standards.
  - (2) Within three (3) days following the issuance of a zoning permit, the Zoning Administrator shall:
    - a. Deliver a copy of the permit to the Listers of the municipality;
    - b. Post a copy of the permit in at least one (1) public place in the municipality until the expiration of fifteen (15) days from the date of issuance of the permit; and
  - (3) Within thirty (30) days after a municipal land use permit has been issued the appropriate municipal official shall:
    - a. Deliver and record an original or a legible copy of the municipal land use permit or a notice of municipal land use permit in compliance with Section 9.11.

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- b. File a copy of that municipal land use permit in the offices of the municipality in a location where all municipal land use permits shall be kept.
- (D) **Effective Date.** No zoning permit shall take effect until fifteen (15) days from the date of issuance has passed; or in the event that a notice of appeal is properly filed, such permit shall not take effect until final adjudication of said appeal.
- (E) **Certificate of Occupancy.** A Certificate of Occupancy is required prior to the use or occupancy of any land or structure for which a zoning permit has been issued after the effective date of these regulations.
  - (1) Within seven (7) days of the receipt of the application for a Certificate of Occupancy, the Zoning Administrator shall inspect the premises to ensure that all work has been completed in conformance with all permit requirements, including all applicable conditions of the Development Review Board. A Certificate of Occupancy shall be issued by the Zoning Administrator upon his/her determination that the land and or/structure has been developed in accordance with the requirements and conditions of the zoning permit, these regulations, and all other applicable municipal regulations and ordinances. If the Zoning Administrator fails to either grant or deny the Certificate of Occupancy within seven (7) days of the submission of an application, the Certificate of Occupancy shall be deemed to be issued.
  - (2) For land development subject to a State wastewater permit, no Certificate of Occupancy shall be issued until all certifications documenting compliance with the State wastewater permit have been completed.
  - (3) In addition, if the applicant has determined that a certificate as explained in 30 V.S.A. § 51 or §53 (residential building energy standards or commercial building energy standards) is required for any land development, such certificate shall be completed and signed as a condition precedent to the issuance of a certificate of occupancy.

### **Section 9.6 - Public Hearing and Notice Requirements for DRB Approvals**

- (A) **Public Hearings.** All public hearings required under these regulations shall be warned in accordance with the Act (24 V.S.A §4418 and §4464). Notice shall be given not less than fifteen (15) days prior to the date of the public hearing by the publication of the date, place and purpose of the hearing in a newspaper of general publication; and by the posting of the same information in three or more public places within the municipality, one of which includes within view of the public right-of-way most nearly adjacent to the subject property. The Zoning Administrator shall be responsible for posting and maintaining applicable notices within view of the public right-of-way. Such notices shall include a general description of the proposed land development, including the number of new lots to be created if the proposed land development is a subdivision.
- (B) **Notice.** A copy of such notice shall be sent at least fifteen days prior to the public hearing to all adjoining property owners of record as identified in the application, the DRB, and to the Clerk of an adjacent municipality in the case of a subdivision application for land located within five hundred (500) feet of a municipal boundary. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained and that participation in the public hearing is a prerequisite to the right to make any subsequent appeal.
- (C) **Combined Reviews.** In accordance with the Act [Section 4462], in cases where a proposed project will require more than one type of development review, the Development Review Board may warn and

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hold a combined hearing for the purpose of reviewing and acting on the proposal. The Zoning Administrator shall identify proposed projects appropriate for combined review and assist applicants in preparing and submitting coordinated applications to facilitate the combined review.

Notice for a combined review hearing shall be made in accordance with Section 4464. The hearing notice shall include a statement that the hearing will be a combined review of the proposed project and list each of the review processes that will be conducted at the hearing.

As applicable, the combined review process shall be conducted in the following order:

- (1) Access by Right-of-way
- (2) Requests for Waivers or Variances
- (3) Conditional Use Review
- (4) Subdivision Approval (preliminary and final) or Planned Unit Development (PUD) Review
- (5) Flood Hazard Review

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

### **Section 9.7 - Decisions**

#### **(A) Decisions.**

- (1) **Decisions of the Development Review Board.** In accordance with the Act [Section 4464] the Development Review Board, upon completion of a hearing, shall render its decision, to include written findings of fact and any conditions, within forty-five (45) days. Failure to render a decision within the required period shall result the project being deemed approved. Copies of any Development Review Board decision shall be sent, within the forty-five (45) day period, to:
  - a. The appellant (by certified mail);
  - b. Every person or party who appeared and was heard at the hearing;
  - c. The Zoning Administrator; and
  - d. The Town Clerk for filing as part of the public records of the Town.

### **Section 9.8 - Appeals**

#### **(A) Appeals.**

- (1) **Appeal of Zoning Administrator's Decision.** Any interested person may appeal any decision or act taken by the Zoning Administrator by filing a written notice of appeal with the Secretary of the Development Review Board, or the Town Clerk if no such Secretary has been elected, within fifteen (15) days of the date of such decision or act. An appeal submitted by the appellant shall include the name and address of the appellant; a brief description of the property with respect to which the appeal is being made; a reference to the regulatory provisions applicable to the appeal;

the relief requested by the appellant; and the alleged grounds why such relief is believed proper under the circumstances. Where it is alleged that an error has been committed in any order, requirement, decision or determination made by the Zoning Administrator in the connection with the enforcement of these regulations, the Development Review Board shall consider available evidence and testimony and determine, following public hearing, whether such an error has been committed.

- (2) **Appeal of Development Review Board Decision.** In accordance with the Act [Sections 4471], any interested party who has participated in a municipal regulatory proceeding on the issue may appeal a decision of the Development Review Board, within thirty (30) days of such decision, to the Vermont Environmental Court. Notice of the appeal and appropriate fees shall be sent by certified mail to the Vermont Environmental Court, and by mailing a copy to every interested person appearing and having been heard at the hearing before the Board, and to the Zoning Administrator and/or Town Clerk, who shall supply a list of interested persons to the appellant within five (5) working days. If any of these persons are not party to the appeal, upon motion they shall be granted leave by the Court to intervene.
- (B) **Interested Person:** An “Interested person” for the purposes of appeal shall be defined pursuant to the Act [Section 4465], and defined in Article X of these regulations..
- (C) **Successive Applications:** The Development Review Board may reject an appeal without a hearing and render a decision and findings of fact within ten (10) days of the date of the filing of a notice of appeal, if the Development Review 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 said appellant. Such decision shall be rendered by notice given as in the case under paragraph (F) of this subsection, and shall constitute a decision for the purpose of appeal to the Vermont Environmental Court.

## **Section 9.9 - Variances**

- (A) **Applicability.** On an appeal under Section 9.8, or on a referral of the Zoning Administrator under Section 9.5, a variance from the provisions of a bylaw or interim bylaw may be requested by the applicant for a structure that is not primarily a renewable energy resource structure.
- (B) **Standards.** The Development Review Board shall grant said variance, and render a decision in favor of the appellant, only if *all* of the following conditions are found to exist and are specified in its decision in accordance with the Act [Section 4469]:
  - (1) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the zoning regulations in the district in which the property is located;
  - (2) That because of such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is necessary to enable the reasonable use of the property;
  - (3) That such unnecessary hardship has not been created by the appellant;
  - (4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and

- (5) That the variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from the zoning ordinance and the plan.

On appeals for variance from the provisions of this bylaw involving a structure that 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 Section 4469 of the Act are found in the affirmative.

- (C) **Conditions.** In granting a variance, the Development Review Board may impose conditions that it deems necessary and appropriate under the circumstances to implement the purposes of these regulations and the Town Plan currently in effect. In no case shall the Development Review Board grant a variance for a use which is not permitted or conditionally permitted within the applicable district, nor shall it grant a variance which results in an increase of allowable density.

### **Section 9.10 - 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 that 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 bylaw after the 7 day notice period and within the next succeeding 12 months. Violations shall be recorded in the land records pursuant to Section 9.11.
- (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.

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- 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.
- c. 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 a public health risk or hazard.

- (D) **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.

## **Section 9.11 - Recording Requirements**

- (A) **Permits, DRB Approvals, and Violations.** Pursuant to the Act [Section 4449], within thirty (30) days after a municipal permit relating to land, structures, and other improvements to land (including but not limited to zoning permits and associated conditional use, variance, or site plan approvals, or certificates of occupancy) has become final, or within thirty (30) days of the issuance of any notice of violation, the Zoning Administrator or other appropriate municipal official shall deliver a notice of violation or memorandum or notice of recording to the Town Clerk for recording as provided in 24 V.S.A. subsection 1154. The applicant may be charged for the cost of recording fees.
- (B) **Subdivision Plats.** All subdivision plats shall be recorded in compliance with the requirements in Section 4.3(G) and this section.
- (C) **Recording Cost.** The Zoning Administrator or other municipal officer shall charge the applicant for the cost of the recording fees as required by these regulations.

## Article X. Definitions

### Section 10.1 - Terms and Uses

(A) Except where specifically defined herein or in the Act, or unless otherwise clearly required by the context, all words, phrases and terms in these regulations shall have their usual, customary meanings.

(B) The words and terms used, defined, interpreted or further described in Article X shall be construed as follows:

- (1) The specific controls the general;
  - (2) The present tense includes the future tense;
  - (3) Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary;
  - (4) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," and "occupied for;"
  - (5) The word "shall" is mandatory; the word "may" is permissive; the term "generally shall" indicates that it is mandatory unless the Development Review Board or other applicable body deems otherwise in accordance with these regulations;
  - (6) The word "person" includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual, unless otherwise specifically defined herein;
  - (7) The word "structure" includes "building;"
  - (8) The word "lot" includes "parcel."
- (C) Words, phrases and terms neither defined herein nor elsewhere in these regulations shall have their usual and customary meanings except where the context clearly indicates a different meaning. Any interpretation of words, phrases or terms by the Zoning Administrator may be appealed to the Development Review Board under Section 9.8 for a written declaratory ruling. In such cases, the Board shall base its ruling upon the following definitions, state statute, and the need for reasonable and effective implementation of these regulations. The Development Review Board may publish and update such rulings of interpretation, to ensure consistent and uniform application of provisions of these regulations.
- (D) Definitions in Section 10.3 shall take precedence over all other definitions pertaining to land development in the Special Flood Hazard Area.

### Section 10.2 - Definitions

**Accessory Dwelling:** A separate, complete dwelling unit composed of 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, and which the title is inseparable from the primary single-family dwelling. This definition shall include accessory units as defined under the Act [Section 4412.E].

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**Accessory Structure:** A structure, the use of which is incidental and subordinate to the principal use or structure and is located on the same lot. Examples of accessory structures include patios, permanent swimming pools, unattached garages, tool sheds, workshops, unattached decks and gazebos, boathouses, and docks. Includes temporary docks and permanent stairs four (4) feet or less in width within the shoreland setback area. See also Accessory Dwelling, Accessory Use.

**Accessory Use:** A use, which is incidental and subordinate to a principal use located on the same lot.

**The Act:** The Vermont Municipal and Regional Planning and Development Act, Title 24, Chapter 117, Vermont Statutes Annotated as most recently amended.

**Affordable Housing:** Housing specifically designed and established to meet the needs of households at or below the median income for the Metropolitan Statistical Area (MSA), at costs (excluding utilities) which do not exceed thirty (30) percent of the gross household income. Affordable units may include rental or owner-occupied dwelling units intended for long-term affordability through limited equity housing cooperatives, perpetually restricted housing (e.g., housing or community land trust projects), federal and state affordable or subsidized housing programs, or other appropriate legal mechanisms.

**Agribusiness:** Any individual, partnership, corporation or organization primarily supplying services or goods (such as equipment, feeds, or supplies) to producers, or marketable agricultural products, including greenhouses, nurseries, farm cooperatives and the like which are not otherwise specifically defined as agriculture by the Commission of Agriculture, Food and Markets.

**Agriculture:** Land or structures primarily used for cultivating soils, producing crops, or raising livestock; orchards and maple sugar production; the storage, processing or sale of products raised on the premises; or as otherwise defined by the Commissioner of Agriculture, Food and Markets. Structures which are customarily an accessory to agricultural uses and are located on the same parcel as an agricultural use shall be included in this definition.

**Basement:** Any area of a building having its floor below ground (subgraded) on all sides.

**Bed & Breakfast:** A single-family dwelling designed to room and board persons on a nightly, weekly, or seasonal basis, accommodating not more than eight (8) guests in addition to the principal occupants who shall reside on premise. Central dining and food preparation facilities may be provided sufficient to serve registered guests; cooking facilities shall not be provided in individual guest rooms.

**Buffer:** A designated strip or area of land intended to visibly and/or functionally separate one use from another; to shield or block noise, lights, or other nuisance from neighboring properties; or to lessen the visual or physical impact of development on surface waters, wetlands and other natural and scenic areas.

**Building:** See definition of “structure.”

**Building Coverage:** The horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory structures on a lot, including the area of all exterior decks, porches and patios.

**Building Envelope:** A specific area delineated on a lot within which all structures shall be located, and outside of which no structures shall be located.

**Camp:** See Dwelling/Seasonal.



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**Camper (Recreation Vehicle, Travel Trailer):** A vehicle without permanent foundation, which can be towed, hauled or driven, and is designed as a temporary living accommodation for travel, recreational, and/or camping use. This includes but may not be limited to travel trailers, truck campers, camping trailers, self-propelled motor homes or any other similar device or conveyance so constructed as to permit its ready transport, or use as temporary living/sleeping quarters [see Section 4.3]. Campers, by definition, are not considered mobile homes for the purposes of these regulations. See also Accessory Dwelling or Mobile Home.

**Campground:** A place or business providing tenting or travel trailer access and accommodations for camping purposes where money or other valuable consideration is exchanged for such use. See also Primitive Campgrounds.

**Clinic:** Any establishment where people are examined and treated by health care professionals on an outpatient basis.

**Club (Private, Service):** A building or use catering exclusively to members and their guests for fraternal, recreational or other non-profit purposes.

**Commercial:** An activity involving the provisions of facilities, goods or services (other than those provided by municipal, state or federal governments) to others in exchange for payment of a purchase price, fee, contribution, or other consideration having value.

**Community Care Facility:** A facility providing room, board and personal care services which contains common cooking, dining and recreation facilities which serves the elderly and/or the infirm. See also Day Care Facility and Group Home.

**Community Sewage Disposal System:** Any wastewater disposal system other than a municipal sewage disposal system that disposes of sewage for domestic, commercial, industrial or institutional uses to two or more private users or customers.

**Community Water System:** Any water system owned by the same person or persons that supplies water for domestic, commercial, industrial, or institutional uses to two or more users or customers.

**Construction:** Exterior substantial improvements or new assembly or placement of a structure on a site, including related, incidental site preparations, excavation and grading.

**Contiguous:** A land area shall be deemed contiguous although crossed, bisected, or otherwise encumbered by town highways, roads, private rights-of-way, road and utility line rights-of-way and easements, or other like encumbrances or easements, drainages, brooks, and streams. A parcel of land shall be considered contiguous to another parcel of land if they meet at any point. State of Vermont rights-of-way and public waters, which divide ownership of land, shall define non-contiguous land areas.

**Contractor's Yard:** A business, which operates out of a yard with indoor and/or outdoor storage of materials, equipment and vehicles, with the majority of the business activity, taking place off-site. Customary accessory structures and/or uses may include a small office, storage and maintenance areas for equipment and vehicles.

**Conversion:** The change of use of land or building from one category of use as listed in the zoning district regulations or defined in this section, to another category of use, including the conversion of a seasonal dwelling to a dwelling intended and designed for year-round occupancy.

**Cottage Industry:** A commercial, manufacturing or light industrial use, which is housed in a single-family

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dwelling or in, an accessory structure to a dwelling (see Section 6.7). See also Home Occupation, Light Industry.

**Cultural Facility:** A museum, art gallery, theater, concert hall, or other establishment offering programs, performances or exhibits of cultural, educational, historical, or scientific interest, excluding a movie theater.

**Day Care Facility:** A facility providing day care services, for profit or otherwise, for children and/or the elderly. Pursuant to the Act [Section 4412(5)] a state registered or licensed day care facility serving six (6) or fewer children shall be considered by right to constitute a permitted single family dwelling.

**Development Road:** A private road serving four (4) or more parcels. See also Driveway.

**Development Review Board (DRB):** A group of people appointed by the Select Board to elect officers, establish and apply rules of procedure, and all else defined in Section 9.2.

**Driveway:** An access serving a maximum of three (3) parcels. See also Development Road.

**Dwelling (Dwelling Unit):** A building designed or used as the permanent or seasonal living quarters for one or more families. A dwelling unit shall consist of one (1) or more rooms designed, occupied or intended for occupancy as separate living quarters with cooking, sleeping and sanitary facilities. Each dwelling unit shall constitute a separate unit for purposes of calculating density. The terms "dwelling" or "dwelling unit" do not include hotels, motels, or similar lodging facilities. See also Family, Lodging Establishments.

**Dwelling/Accessory:** See Accessory Dwelling.

**Dwelling/Multi-Family:** A building containing three (3) or more dwelling units for families living independently of each other. This may include condominiums, apartments, cooperatives, and other forms of multiple family housing, but does not include hotels or motels.

**Dwelling/Seasonal:** A dwelling unit which is not the primary residence of the owner or occupant and is occupied only on a part-time or seasonal basis. This shall include, but may not be limited to: a dwelling which lacks one or more of the basic amenities or utilities required for year-round or all-weather occupancy, including a winterized water system, insulated walls and roof, heating source and an adequate wastewater disposal system; or a dwelling that specifically has been permitted as a seasonal dwelling.

**Dwelling Single-Family:** A building consisting of one (1) dwelling unit.

**Educational Facility:** A public or private school or other facility intended specifically for educational purposes, which is certified by the Vermont Department of Education.

**Elderly Housing:** Housing specifically designed, built, operated and reserved for elderly residents, (fifty-five [55] years and older), consistent with state and federal fair housing standards and requirements.

**Equipment Supply and Rental:** The storage, warehousing, and distribution of residential or commercial equipment used in the construction, repair or maintenance of buildings or property on a retail or rental basis.

**Excavation:** Any breaking of ground and extraction or movement of earth or rock, or any alteration of existing drainage patterns, which substantially affects adjacent properties. Common agricultural tillage, gardening and excavations in cemeteries shall be exempt from these regulations.

**Fall Zone:** The setback required in all directions around a telecommunications facility that is equivalent to no less than the height of the facility, including antennas or other vertical appurtenances.

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**Farm:** One (1) or more parcels of land, either contiguous or non-contiguous, in individual or affiliated ownership, managed as an agricultural enterprise, and in compliance with State Accepted Agricultural Practices.

**Final Plat:** The final survey on which the subdivision is presented to the DRB for approval and which, if approved, shall be filed for record with the Town Clerk.

**Gas Station:** Any building, land area or other premises or portion thereof used or intended to be used for the retail dispensing or sales of vehicular fuels; and including as an accessory use the sale or installation of lubricants, tires, batteries, and similar accessories [see Section 6.6]. See also Motor Vehicle Service and Repair.

**Group Home:** A residential structure or boarding house which provides, for profit or otherwise, room, board and/or personal care to less than eight (8) residents who are unrelated to the operator. Pursuant to the Act [Section 4412(G)], a group home licensed or registered by the State of Vermont which houses less than eight (8) residents, who have a handicap or disability as defined by 9 V.S.A. Section 4501, shall be considered by right to constitute a permitted single-family use of the property, unless it is located within one thousand (1,000) feet of another such home. See also Community Care Facility.

**Height:** The height measured from the highest point on the top of a structure vertically to the lowest point of the adjacent grade at the foundation. See Section 5.6.

**Home Occupation:** An occupation carried on entirely within a dwelling and/or accessory structure by the occupants thereof, which is customarily incidental and secondary to the use of the building for dwelling purposes, and which does not substantially alter the residential character thereof [see Section 4.6]. See also Cottage Industry.

**Industrial Uses:** Industrial uses shall include both manufacturing and warehousing; specifically those activities involving the processing, fabrication, and/or temporary storage of materials and products. See also Cottage Industry, Light Industry.

**Interested Person:** Any party who may legally appeal a decision to the Development Review Board or Vermont Environmental Court (see Section 9.8).

**Junk:** Old or scrap copper, brass, iron, steel, and other old or scrap or nonferrous material, including rope, rags, batteries, glass, rubber debris, waste, trash, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicles or parts thereof.

**Junk Yard:** See Salvage Yard.

**Kennel (Boarding):** Any lot or premises operated by a commercial or non-profit entity, on which more than four (4) dogs, cats, or other household domestic animals are temporarily or permanently boarded.

**Landscaping:** Installing lawns, trees, plants, and other natural materials, such as rock and wood chips, and decorative features.

**Land Development:** The division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining, excavation, or landfill, and any change in the use of any building or other structure, or land, or extension of use of land, pursuant to the definition of “land development” in the Act [Section 4303(10)].

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**Light Industry:** Any industrial use including but not limited to the manufacture, processing, fabrication, or storage of products (except where ancillary or accessory to another use permitted under these regulations); having not more than thirty (30) employees during the largest shift, or occupying more than twenty thousand (20,000) square feet of gross floor area (see Section 6.8). See also Cottage Industry.

**Lodging Establishments:** A building or group of associated buildings containing bedrooms and other facilities for occupancy and use by transients on a short term basis (generally less than one month average), and having a management entity operating the building(s) and providing such services as maid service, a central switchboard, or dining facilities to the occupants of the lodging facility. Where rooms in the building(s) are under separate ownership, a rental and management contract between the owner and a rental and management agent or agents is required. For purposes of this definition, separate ownership includes, but is not limited to, interval ownership in fee or leasehold, condominium ownership and cooperative ownership with proprietary lease. Included are inns, hotels, motels, tourist courts, cabins, motor lodges, sports camps, and the like. See also Bed & Breakfast, Campground.

**Lot:** A parcel of land under single or joint ownership, the boundaries of established by a deed or deeds recorded in the land records of the Town of Fletcher or shown on a plat approved by the Fletcher Development Review Board.

**Lot Area:** Total area within the property line, excluding any part thereof lying within the boundaries of an existing or proposed street line.

**Lot Coverage:** The percentage of lot area which is covered by buildings, structures, and other impervious surfaces.

**Lot Frontage:** The length of a lot as measured along a maintained public road, or other approved development road or street right-of-way; the front lot line.

**Major Subdivision:** A subdivision of land composed of three (3) lots or more.

**Metropolitan Statistical Area (MSA):** A Metropolitan Statistical Area (MSA) is a geographic entity defined by the federal Office of Management and Budget (OMB) for use by federal statistical agencies. MSAs have at least one urbanized area of 50,000 or more population, plus adjacent territory that has a high degree of social and economic integration with the core as measured by commuting ties. The Burlington/South Burlington MSA includes all municipalities within Chittenden, Franklin and Grand Isle Counties including Fletcher.

**Minimum Lot Size:** The smallest area on which any development as defined herein is permitted if also in conformance with all other provisions of these regulations. Also see Development, Lot.

**Minor Subdivision:** A subdivision of land creating two (2) lots. Any property that has been created as a part of a minor subdivision application shall not be included in another application for a minor subdivision during the following two year period.

**Mixed Use:** A structure or parcel containing two or more principal use types (see Section 6.9).

**Mobile Home:** A structure, transportable in one or more sections which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. This definition includes other forms of permanent housing manufactured off-site, but specifically excludes campers and other recreation vehicles.

**Mobile Home Park:** A parcel of land under single or common ownership or control, which is used (or is

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to be used) to accommodate two (2) or more mobile homes (see Section 6.10). See also the State of Vermont definition [10 V.S.A. §6201].

**Motor Vehicle Service and Repair:** An establishment providing major servicing or repair of automobiles, trucks, farm and construction equipment, or other motorized vehicles, including body shops, vehicle repair shops, and mobile home and camping vehicle service establishments. Such uses may include up to eight (8) vehicles displayed for sale on premises, subject to conditional use review. See also Gas Station, Salvage Yard.

**Non-Conforming Structure:** A structure or part thereof not in compliance with the minimum requirements of these regulations, including but not limited to dimensions, height, area, density, or off-street parking or loading requirements, where such structure conformed to all applicable laws, ordinances, and regulations prior to the enactment of these regulations (see Section 3.8).

**Non-conforming Use:** A use of land or a structure which does not comply with all provisions of these regulations, where such use conformed to all applicable laws, ordinances, and regulations prior to the enactment of these regulations (see Section 3.8).

**Open Space:** The undeveloped portion of any development parcel(s) which is not occupied by buildings, streets, rights-of-way, driveways, parking spaces or commercial recreation facilities and which is set aside, dedicated, or designated for the perpetual use and enjoyment of owners and occupants of land adjoining or neighboring such open space for recreational, agricultural, forestry or conservation uses.

**Office (Professional/Business):** A building or portion of a building wherein services are performed involving predominately administrative, clerical or professional operations.

**Overlay District:** A zoning district that encompasses one or more underlying zones and that imposes additional requirements above that required by the underlying zone.

**Parking Space:** An area of not less than nine (9) feet by eighteen (18) feet exclusive of loading, access and maneuvering areas, landscaped areas, etc. to be used exclusively as a temporary storage space for one motor vehicle at a time (see Section 7.2).

**Planned Unit Development (PUD):** A proposal to the Development Review Board for a unique and innovative residential, commercial, industrial, or mixed use project to provide a different mixture, density and arrangement of uses other than that which is normally permissible under these regulations, in accordance with the Act [Section 4417] and Section 5.3. See also PUD.

**Plot Plans.** A detailed illustration of the proposed subdivision, which may be one sheet or many sheets as necessary to make the information clear and legible. Plot plans shall be drawn to scale and include detailed information as required in Table 4.1.

**Primary Conservation Resources:** Steep slopes greater than 25% grade, wetlands, special flood hazard area, rivers and streams. See Section 5.11.

**Primitive Campgrounds** for the purposes of these regulations are campgrounds which are essentially undeveloped (e.g., not serviced by power or other utilities) but which may include a designated water source, toilet facility (e.g., a pit or composting toilet) and/or a primitive shelter (e.g., a lean-to or hut). See also Lodging Establishments or Recreation Facility/Outdoor.

**Primitive Shelter:** A shelter has with no interior plumbing consisting of no more than a sink with water that are used for no more than three (3) consecutive weeks per year and no more than a total of sixty (60)

## DEVELOPMENT REGULATIONS - TOWN OF FLETCHER, VT

days per year.

**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 and/or uses, constitutes all structures and uses of said lot.

**Preliminary Plan:** The preliminary drawings for a major subdivision indicating the proposed layout of the subdivision to be submitted to the DRB for its consideration.

**Public Facility:** Those facilities provided for and/or available to the residents of the Town including facilities in use by any municipal, State, or Federal Government, public utility, or other quasi-public institution, such as buildings, correctional institutions, power generation facilities, electric, gas, oil and similar transmission facilities, water supply and sewage treatment facilities, fire protection and police protection, and including public and private schools or other educational institutions (see Section 6.11 and 24 V.S.A. §4413).

**PUD:** A planned unit development. See also Planned Unit Development.

**Recreation Facility/Indoor:** Any facility for indoor recreation including but not limited to bowling alleys, theaters, pool halls, skating rinks, gymnasiums, indoor swimming pools, tennis courts and other similar places of indoor recreation, with the exception of facilities that are accessory to a residential dwelling. See also Cultural Facility.

**Recreation Facility/Outdoor:** Unless otherwise specified or limited under Article II, any facility for outdoor recreation, including but not limited to athletic fields, golf courses, golf, shooting or archery ranges, swimming pools and beaches, skating rinks, tennis courts, parks; trails for hiking, horseback riding, bicycling, snowmobiling and cross-country skiing, and other similar places for outdoor recreation with the exception of facilities that are accessory to a residential dwelling. Such facilities may be improved or unimproved. See also Campground.

**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.

**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 Use:** Includes single-family, two-family and multi-family dwellings.

**Restaurant:** Premises where food and drink are prepared, served and consumed primarily within the principal building, including bars and lounges. Drive-through restaurants are specifically excluded from this definition and are prohibited.

**Resubdivision:** Any change or alteration of a recorded subdivision plat, if such change affects any street layout on such plat, or area reserved thereon for public use, or any lot line; or if the change affects any map, plan or conditions recorded in association with the subdivision plat.

**Retail Commercial:** Establishment where goods or merchandise are offered for retail sale or short term rental to the general public for personal, business or household consumption and services incidental to the sale of such goods are provided.

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

**Secondary Conservation Resources:** Farmland and land with prime and statewide agricultural soils, steep slopes between 15% and 25% grade, and Habitat Blocks greater than 6000 acres in size, as identified by the Vermont Agency of Natural Resources. See Section 7.3.

**Service Commercial:** An establishment providing services of a personal nature, including but not limited to laundry and dry cleaning, beauty shops, barber shops, appliance repair, funeral services, and photographic studios.

**Setback:** The measurement from any structure or building as established for each zoning district and/or use, a measurement from the property line, stream bank, shoreline or other delineated feature edge (e.g. wetlands) to the closest portion of any structure including, but not limited to rooflines, porches, and decks. Entry stairs and handicapped ramps are specifically excluded.

**Shoreline Stabilization Methods:** The use of structures, vegetation, or land management practices to provide protection of a shoreline from future or existing erosion, including but not limited to vegetative buffers, rip-rap, and seawalls. This includes nonstructural, structural, bioengineering and biotechnical stabilization methods.

**Sign:** Any structure, display, device, or representation, which is designed, used or placed as an announcement, direction or advertisement (see Section 5.11).

**Sketch Plan:** An informal sketch of the proposed subdivision, the purpose of which is to enable the subdivider to reach general agreement with the DRB as the form of the subdivision and objective and requirements of these regulations.

**Slope:** The slope of a land area, also called the grade, is expressed as the number of feet the land rises (RISE) over a distance of the land (RUN). The following formula can be used to calculate percent slope:  $(\text{Rise} \div \text{Run}) \times 100 = \% \text{ Slope}$ .

**Street:** Any road, highway, avenue, street, land or other way between right-of-way lines or easement, commonly used for vehicular traffic and serving three or more lots.

**Structure:** Anything constructed, erected or placed which requires a fixed location on the ground in order to be used. Included, in addition to buildings, are signs, garages, carports, porches, patios, swimming pools, and any other outbuildings and building features. Not included are sidewalks, driveways, and temporary or floating docks.

**Subdivision:** Division of any lot or parcel of land, after the effective date of these regulations, for the purpose of conveyance, transfer of ownership, improvement, building, development, or sale. The term subdivision includes re-subdivision.

**Survey Plat.** A map surveyed to scale on Mylar by a licensed land surveyor for filing in the Town's land records. It shall clearly depict one or more parcels, tracts or subdivisions of land, showing, but not limited to, boundaries, corners, markers, monuments, easements and other rights. Survey Plats shall be prepared according to Section 4.4(A) and 27 V.S.A .Section 17.

**Telecommunications Facility:** A facility that transmits or receives electromagnetic signals, including but not limited to antennas, microwave dishes, horns, and other types of equipment for the transmission or receipt of such signals; telecommunication towers or similar supporting structures; equipment buildings and parking areas; and other types of accessory development.

**Top of Bank:** The point along a stream bank where an abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain during flows at or exceeding the average annual high water stage.

**Top of Slope:** A break in slopes adjacent to steep-banked streams that have little or no floodplain; or a break in slope where the side slopes adjacent to an incised, or deeply cut, channel meet floodplains that have been abandoned or are undergoing abandonment.

**Town Plan:** The Fletcher Town Plan as most recently adopted.

**Tract of Land:** A defined area of land.

**Undue Adverse Effect:** See Figure 3.2 in Section 3.2.

**Use:** The specific purpose or activity for which land or structures are arranged, designed or intended for, or for which either land or structures are or are intended to be occupied or maintained. See also Accessory Use.

**Wetlands:** To include all wetlands identified on National Wetland Inventory (NWI) maps, wetland areas identified as “Ecologically Significant Wetlands” by the Vermont Nongame and Natural Heritage Program, and/ or wetland areas identified through site analysis to be inundated by surface or groundwater with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction pursuant to the Vermont Wetland Rules.

**Yard:** An open space abutting all property lines of a lot, unoccupied by a structure from the ground upward, except as otherwise provided in these regulations. See also Setbacks.

### **Section 10.3 – Special Flood Hazard Area Definitions**

**Accessory Structure:** means a structure which is: 1) detached from and clearly incidental and subordinate to the principal use of or structure on a lot, 2) located on the same lot as the principal structure or use, and 3) clearly and customarily related to the principal structure or use. For residential uses these include, but may not be limited to garages, garden and tool sheds, and playhouses.

**Area of Special Flood Hazard:** is synonymous in meaning with the phrase “special flood hazard area” for the purposes of these regulations.

**Base Flood :**means the flood having a one percent chance of being equaled or exceeded in any given year (commonly referred to as the “100-year flood”).

**Base Flood Depth (BFD):** is the depth shown on the Flood Insurance Rate Map (FIRM) for Zone AO that indicates the depth of water above highest adjacent grade resulting from a flood that has a 1% chance of equaling or exceeding that level in any given year.

**Base Flood Elevation (BFE):** is the elevation of the water surface resulting from a flood that has a 1 percent chance of equaling or exceeding that level in any given year. On the Flood Insurance Rate Map the elevation is usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American



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Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or the average depth of the base flood, usually in feet, above the ground surface.

**“Common plan of development”** is 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.

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

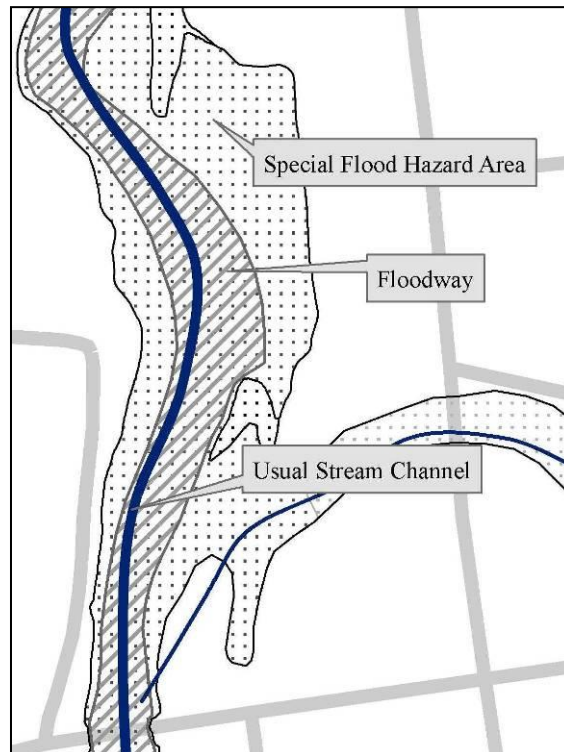
**Fill:** means any placed material that changes the natural grade, increases the elevation, or diminishes the flood storage capacity at the site.

**Flood:** means (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):** means an official map of a community, on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. In some communities the hazard boundaries are available in paper, pdf, or Geographic Information System formats as a Digital Flood Insurance Rate Map (DFIRM).

**Flood Insurance Study:** means an examination, evaluation and determination of flood hazards and, if appropriate, the corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.

**Floodplain or flood-prone area:** means any land area susceptible to being inundated by water from any source (see definition of “flood”).



**Flood proofing:** means 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:** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. Please note that Special Flood Hazard Areas and floodways may be shown on a separate map panels.

**Floodway, Regulatory in Town of Fletcher:** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

**Functionally dependent use:** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

**Historic structure:** means 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):** is 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:** means the lowest floor of the lowest enclosed area, including basement, except an unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

**Manufactured home (or Mobile home):** means 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".

**New construction:** for regulation under this bylaw, means structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by the 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;** means 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

## DEVELOPMENT REGULATIONS - TOWN OF FLETCHER, VT

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

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

**Structure:** means, for regulatory purposes under this bylaw, a walled and roofed building, as well as a manufactured home, and any related built systems, including gas or liquid storage tanks.

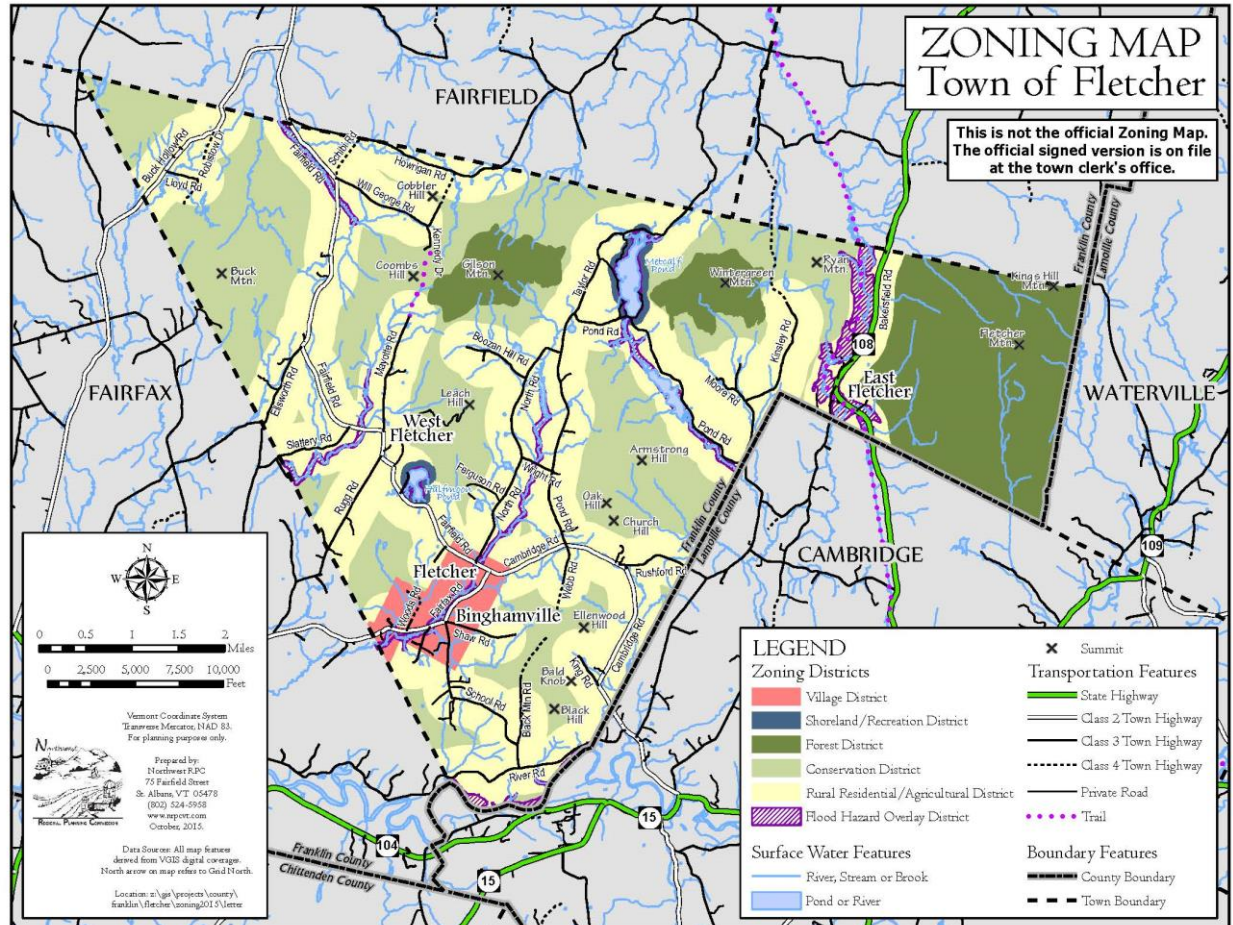
**Substantial damage:** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

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



## Appendix A: Official Zoning Map and Flood Hazard Areas Map





# DEVELOPMENT REGULATIONS - TOWN OF FLETCHER, VT

