

Town of Sudbury

Unified Development Ordinance



Adopted January 10, 2022

SUDBURY UNIFIED DEVELOPMENT ORDINANCE

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ARTICLE I: ENACTMENT, OBJECTIVES, PURPOSE AND SCOPE

Section 101 - Enactment

In accordance with the Vermont Planning and Development Act, 24 VSA 117, hereinafter referred to as the “Act”, there are hereby established zoning and subdivision regulations for the Town of Sudbury. These regulations shall be known and cited as the Town of Sudbury Unified Development Ordinance (UDO).

Section 102 - Objectives and Intent

The objective of the Unified Development Ordinance is to establish standards and policies concerning land use and development of land that further the goals of the Sudbury Town Plan, promote the general health, welfare and quality of life of the residents and:

- to reserve and enhance the present open and rural character of the Town, its scenic resources, bodies of water, forests and agricultural soils;
- to maintain the present balance between residential and other types of land use, with the Village in the center surrounded by more open rural lands;
- to insure, insofar as possible, that new development that occurs does not distort or jeopardize the present financial structure of the Town;
- to discourage speculation in land or buildings;
- to insure that new development does not create demands for public services beyond the Town's ability to support those demands;
- to support the goals statement of the Town Plan; and
- to effect the purposes of 10 V.S.A. Chapter 32, and in accordance with 24 V.S.A. 117 §4424, as it pertains to areas of special flood hazard.

This Ordinance does not affect the use of land or buildings in existence at the time of its adoption, except through change of status of non-conformity as stipulated herein. Nothing contained herein shall require any change in plans or construction for which a zoning permit has been issued prior to the date of adoption of this Ordinance, as amended.

Section 103 – Scope

This Unified Development Ordinance establishes conditions governing the development of land within the Town of Sudbury. No land development or subdivision shall commence within the Town except in compliance with this Ordinance. All proposed

construction and other developments including the placement of manufactured homes within Zone A of the Flood Insurance Rate Map shall require permits. Any land development and/or subdivision of land not specifically authorized under this Ordinance, unless otherwise exempted under the Act, or Section 805(C) of this Ordinance, is prohibited. No building, structure or land shall hereafter be used or occupied, and no building, structure or portion thereof shall hereafter be erected, moved, constructed, reconstructed, extended, enlarged, or altered contrary to the provisions of this Ordinance, including without limitation the provisions of Article VI .

Section 104 - Effective Date of Code

The effective date of this Unified Development Ordinance is January 10th, 2022 in accordance with the provisions of 24 V.S.A. 117 §4442(c)(1) and Section 906.

ARTICLE II: DEFINITIONS

Section 201 – Definitions

Except where specifically defined herein, all words used in this Ordinance shall carry their customary meanings. Words used in the present tense include the future, and the singular includes the plural. The word “lot” includes “plot”; the word “building” includes “structure”; the word “shall” is mandatory; the words “occupied” or “used” shall be considered as though followed by “or intended, arranged, or designed to be used or occupied”; the word “person” includes “individual, partnership, association, corporation, or any other incorporated or unincorporated organization or group”. The Board of Adjustment shall clarify doubt as to the precise meaning of any word used in this Ordinance.

Access Driveway: A private road providing access to not more than two dwellings or properties.

Accessory Building or Use: A building, structure or use on the same property as a principal building used for purposes normally incidental to those of the principal building.

Accessory Dwelling Unit: A dwelling located within or appurtenant to a single family dwelling on an owner-occupied lot that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation and sanitation.

Access Road: A private road providing access to three or more dwellings or properties.

Act: Referred to herein as “the Act”, the Vermont Municipal and Regional Planning and Development Act, Title 24 Vermont Statutes Annotated Chapter 117, Sections 4301 through 4498, as currently amended (abbreviated herein as 24 V.S.A. 117 §§4301-4498).

Administrator, FIA: Refers to the Federal Insurance Administration.

Agricultural Processing: The assembly, processing, packaging, distribution and sales, on or off the premises, of farm products.

Agricultural Use: Land or structure which is used for raising livestock, or agricultural or forest products, including general farming, pasture, orchard, grazing, outdoor plant nurseries, truck farming and forestry, dairying, apiary, truck gardening, keeping of poultry, farm structures and the storage of agricultural equipment; and, as an accessory use, the processing and/or sale of agricultural products produced or raised on the property.

Airstrip / Helipad, Private: Privately-owned land where general aviation and/or light sport aircraft can take off and land, with accessory buildings for the sole use of the owner and invited guests. This use does not include any type of commercial aviation.

Appurtenant: In, next to, or no more than 400 feet between the closest point of structures.

Attached: Having a common wall and/or roof.

Authorized Agent or Representative: A person or group of persons who have been duly authorized by the applicant in writing to act on his/her behalf.

Auto Repair/ Body Shop: Structure, land or portion thereof used for the repair of motor vehicles, tractors, and equipment, including auto body repair and painting.

Auto Service Station with Retail Store/ Mini Mart: Any structure, or land where gasoline and other petroleum products are sold and/or repair and maintenance and repair activities are conducted. This may include a retail store with gasoline pumps as a secondary use, often referred to as a mini-mart.

Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year.

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

Basement: Any area of the building having its floor sub-grade (below ground level) on any or all sides. A basement shall be counted as a story if the vertical distance between the basement ceiling and the average grade level of the adjoining ground is more than three and one-half feet.

Bed and Breakfast: A lodging facility located within a residential, single-family, owner-occupied dwelling with accommodations of up to six (6) rooms for transient guests. Meal provisions are limited to breakfast and brunch. This does not include commercial lodging, or restaurant facilities.

Boundary-Line Adjustment: A mutual agreement between the owners of two contiguous (abutting) properties to move the common boundary between them without creating an additional lot. Also known as a **Lot-Line Realignment**.

Building: Any structure of a permanent nature enclosed by exterior walls and covered by a roof constructed or used for the shelter of persons, animals, or personal property.

Building Area: Total of areas taken on a horizontal plane at the main unfinished grade level of the principal building and all accessory buildings. All dimensions shall be measured between exterior faces of walls.

Building Height: The vertical distance from the average finished grade at the perimeter of the building to the highest point of the roof beams in flat roof; to the highest point on the deck of mansard roofs; to a level midway between the level of the eaves and highest point of pitched roofs or hip roofs; or to a level two-thirds of the distance from the level of the eaves to the highest point of gambrel roofs. For this purpose, the level of the eaves shall be taken to mean the highest level where the plane of the roof intersects the plane of the outside wall on a side containing the eaves. Towers, steeples, cupolas, chimneys, antennas, windmills, silos and similar structures are exempt from building height considerations.

Camper/Camping Trailer: Any motorized or non-motorized vehicle mounted on wheels and used as sleeping, camping, or temporary living quarters. This includes a camper body mounted on a truck or recreational vehicle and excludes mobile homes.

Campground: Any tract or parcel of land occupied by four (4) or more campers, tents or tent sites for vacation or recreational purposes.

Cemetery: Land or building used for the permanent internment of deceased persons or animals.

Certificate of Occupancy: A legal instrument issued by the Zoning Administrator in accordance with the provisions of 24 V.S.A. 117 §4449(a)(2) and §806 of this Ordinance attesting to the satisfactory completion of the terms and conditions of a municipal land use permit, stating that the proposed use of the structure or land conforms to the requirements of this Ordinance.

Change of Use: An alteration in the nature or intensity of use from one category of use to another (e.g. residential to commercial, etc.) or within a category of use (e.g. one retail use to another or from single-family use to two-family or multi-family use). A change of use shall also include any change of character of the activity (e.g., retail to wholesale).

Child Care Facility: Any place operated as a business or service on a regular or continuous basis, whether for compensation or not, whose primary function is protection, care and supervision of children under sixteen years of age outside their homes for periods of less than twenty-four hours a day by a person other than a child's own parent, guardian or relative, but not including a kindergarten approved by the state board of education.

Child Care Facility, Family: A state registered or licensed day care facility, which provides for care on a regular basis in the caregiver's own residence for not more than six children full time and four children part time at any one time. Care of a child on a part-time basis shall mean care of a school-age child for not more than four hours a day. These limits shall not include children who reside in the residence of the caregiver; except:

- A. these part-time school-age children may be cared for on a full-day basis during school closing days, snow days and vacation days which occur during the school year; and
- B. during the school summer vacation, up to 12 children may be cared for provided that at least six of these children are school age and a second staff person is present and on duty when the number of children in attendance exceeds six. These limits shall not include children who are required by law to attend school (age 7 and older) and who reside in the residence of the caregiver.

A day care operation that serves seven or more children on a full time basis shall not constitute a family child care facility.

Cluster Development: (See **Planned Unit Development**).

Commercial: Land, buildings, premises, and use for the processing, assembly, distribution, packaging, or sales, on-site or off-site, of natural or manufactured products; including, but not limited to, metal working shop (blacksmith or welding) woodworking shop, electronics or similar “high-tech” manufacturing or assembly, machine shop, stoneworks, research and testing lab, printing, warehousing, wholesale trade, building contractor, site contractor, and other similar uses.

Community Care Facility: Means an institution or distinct part of an institution that is primarily engaged in providing to its residents any of the following:

- A. Skilled nursing care and related services for residents who require medical or nursing care.
- B. Rehabilitation services for the rehabilitation of injured, disabled, or sick persons.
- C. On a 24-hour basis, health related care and services to individuals who because of their mental or physical condition require care and services, which can be made available to them only through institutional care (33 V.S.A. Section 7102).

Community Facility: Any meeting hall, place of assembly, museum, art gallery, library, church, recycling center, or other similar type of facilities, which is not operated primarily for profit by a governmental agency or non-profit institution, agency, or group.

Community System: Any system that supplies a basic utility for domestic, commercial, industrial, or institutional uses to two or more users.

Contiguous: Next to, abutting, or touching and having a boundary, or portion thereof that is coterminous. All land that is in common ownership, without regard to any road, river or stream that intersects the land.

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

Dwelling: Any building used by humans for habitation. Includes seasonal dwelling with water and septic facilities and seasonal camp without water or septic facilities, and used for no more than 90 days per year.

Dwelling Unit: Any dwelling or portion thereof used by one family and providing complete housekeeping facilities for the family.

Dwelling Unit, Owner Occupied: A single family dwelling used or improved to be used on a full-time year round basis, occupied as a primary legal residence by the Owner of the property.

Dwelling, Single-Family: Detached building used as living quarters by one family.

Dwelling, Two-Family: Single building used as living quarters by two families, living independently of each other.

Dwelling, Multifamily: A dwelling or group of dwellings on one lot, containing three or more separate living units, having separate or joint entrances, and including apartments, group homes, row houses, and condominiums; also multiple dwellings.

Easement: The grant of one or more property rights by the property owner to and/or for use by the public, a corporation, or another person(s) or entity.

Environmental Division: The division of the Vermont Superior Court to which appeals are taken from decisions of the Planning Commission or Board of Adjustment.

Essential Services: Functions provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These include facilities underground, surface and overhead. Erection, construction, alteration or maintenance by utilities (public and/or private) for services provided.

Existing Manufactured Home Park or Subdivision: Means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete

pads) is completed before the effective date of the floodplain management regulations adopted by the Town of Sudbury.

Expansion to an Existing Manufactured Home Park or Subdivision: Means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Facility: Means a residential care home, maternity home, nursing home, assisted living residence or therapeutic community residence licensed or required to be licensed pursuant to the provisions of 33 V.S.A. Section 7102.

Family: Two or more persons living together as a single housekeeping unit.

Farm Structure: A structure or structures as defined by Vermont Agency of Agriculture, Food and Markets that is used by a person for agricultural production that meets one or more of the following:

- (a) is used in connection with the sale of \$1000 or more of agricultural products in a normal year; or
- (b) is used in connection with the raising, feeding, and management of at least the following number of adult animals: four equines; five cattle or American bison; fifteen swine; fifteen goats; fifteen sheep; fifteen fallow deer; fifteen red deer; fifty turkeys; fifty geese; one-hundred laying hens; two-hundred and fifty broilers, pheasant, Chukar partridge, or Coturnix quail; three camelids; four ratites (ostriches, rheas, and emus); thirty rabbits; one hundred ducks; or one-thousand pounds of cultured trout; or
- (c) is used by a farmer filing with the Internal Revenue Service a Form 1040 Schedule F income tax statement in at least one of the past two years; or
- (d) is on a farm with a business and farm management plan approved by the Commissioner.

Fence: A barrier of any material to enclose, screen or separate areas.

Finished Grade: The final elevation of the average ground level adjoining a building at all exterior walls after development.

Flood Hazard Area: See (Special Flood Hazard Area)

Flood Hazard Boundary Map (FHBM). An official map of a community, issued by the Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.

Flood Insurance Rate Map (FIRM): An official map of a community, on which the Administrator has delineated the special flood hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study: An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Floodplain: The area generally encompassed by the 100 year flood boundaries including the floodway and floodway fringe. See (**Special Flood Hazard Area**)

Floodproofing: Any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floor Area: The sum of the gross horizontal areas of all the enclosed floors of a structure, whose dimensions are measured between the interior faces of the walls.

Forestry: The use of the land for the purpose of maintaining forest resources and producing forest products.

Gravel Pit: Land area from which gravel or similar material is mined, extracted, processed and removed.

Group Home: Any residential facility operating under a license or registration granted or recognized by a state agency, that serves not more than eight unrelated persons, who have a disability or handicap and who live together as a single housekeeping unit.

Habitable Floor Area: The sum of the gross horizontal areas of all the enclosed heated floors of a structure intended for human occupation, whose dimensions are measured between the interior faces of the walls.

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.

Home-based Business/Cottage Industry: An activity, carried out in a dwelling or accessory structure, such as home offices, repair services, business and personal services,

and goods produced or manufactured on site, employing a maximum number of six (6) people and which meets the conditions of Section 503. Cottage industries also include a use engaged in the manufacture of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products.

Home Occupation: Any use conducted entirely within a primary dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for living purposes and does not change the residential character thereof.

Homeowners' Association: An association of property owners mutually joined by a set of Articles of Association registered with the office of the Vermont Secretary of State, to establish their legal jurisdiction over a group of contiguous properties, preserved open areas, communally-owned infrastructure and the privately-owned access roads and driveways that join them.

Industry: An activity primarily concerned with enclosed manufacturing, processing, wholesale selling, or warehousing of goods, or primarily basic industrial activities, many of which characteristically store bulk quantities of raw or scrap material for processing or manufacture to semi-finished projects. Major manufacturing and related industrial activities are also included. Production performance of the manufacturing industries consists primarily of receiving or storing semi-finished products or, in some cases, raw agricultural food products (other than livestock) for further processing, refining or assembling into finished or more finished products.

Kennel: An establishment housing dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business.

Landfill: A disposal site for refuse and trash.

Legislative Body: The Selectboard of the Town of Sudbury.

Line of Building: The line of the face of the building nearest the lot line, including sun porches, and open or closed porches but not the following:

1. outside steps, including landings,
2. fire escapes,
3. cellar hatchways,
4. handicapped access ramps,
5. chimneys.

Living Quarters: The habitable living area of a dwelling intended for occupancy by a human resident (or residents) with provisions for social interaction, sleeping, food preparation and consumption, and essential sanitary facilities.

Lodging, Commercial: Buildings and accessory structures used for the purpose of providing overnight lodging facilities to the general public for compensation, with or without meals; includes Bed & Breakfast Homes with more than six (6) bedrooms, inns, hotels, and motels.

Lot: A designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law, to be owned, used, developed or built upon.

Lot Area: Total area within the lot lines, excluding any street rights-of-way.

Lot, Corner: Lot that has an interior angle of less than one hundred thirty-five degrees (135°) at the intersection of two (2) streets.

Lot Coverage: The percentage of lot area covered by all structures.

Lot Depth: The average distance measured from the front lot line to the rear lot line measured at right angles to the street line. Where a lot fronts on public waters and not a public road, the mean water line shall replace the front lot line.

Lot Frontage: The length of the front lot line measured at the street right-of-way or the public water.

Lot, Interior: Any lot which does not have frontage on either a public road or public waters, but which has access to either a public road or public waters by a deeded right-of-way easement.

Lot Line: Any property line bounding a lot as herein defined. The Administrator may determine lot lines for unusual lot configurations.

1. **Front Lot Line:** The line separating the lot from the street or road. If a lot abuts more than one street, each line is a front lot line.
2. **Rear Lot Line:** The lot line most distant from the front lot line.
3. **Side Lot Line:** A lot line not a front or rear lot line.

Lot Size Averaging: The ability to create a lot for development purposes that is smaller in acreage than otherwise permitted, provided that land, equal in area to the difference between the proposed development lot and the minimum lot size for the district is restricted by protective covenant. Requires a conditional use permit. See (**Section 504 – Planned Unit Development**)

Lot Width: Width measured at right angles to its lot depth, at the proposed or existing building front line.

Lowest Floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building

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

Machinery Repair Shop, Minor: Any lot including the building which is used for the primary purpose of making major or minor repairs to machinery, such as bicycles, mowers, tractors, or small motors, where the amount of noise generated is minimal.

Manufactured Home: A factory built, single-family 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 connected to the required utilities as a place of human habitation but which is not constructed for transport other than to permit delivery to a permanent site. For floodplain management purposes the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term “manufactured home” does not include park trailers, travel trailers, and other similar vehicles.

Marina: A place for docking, mooring, storing, selling, servicing, or repairing boats, including the sale of fuel and supplies.

Mean Sea Level: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Memorandum of Municipal Action: A short-form legal instrument for the recording of land development transactions, filed by the Zoning Administrator with the Town Clerk in accordance with the provisions of 24 V.S.A. 35 §1154(c).

Mobile Home: See **Manufactured Home**.

Mobile Home/Manufactured Home Park: A parcel of land under single or common ownership or control which contains, or is designed, laid out or adopted to accommodate more than two mobile and manufactured homes. This shall not apply to premises used solely for storage or display.

Modular Home: See **(Manufactured Home)**

Municipal Facility: Any structure, land or use held, used, or controlled exclusively for public purposes by the Town of Sudbury, including school districts, without reference to the ownership of the building or the realty upon which it is situated, includes recycling centers and public beaches.

New Construction (for Flood Hazard Use only): For the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and

includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of the Floodplain Management Regulations adopted by a community and includes any subsequent improvement to such structures.

New Manufactured Home Park or Subdivision: Means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the Floodplain Management Regulations adopted by the community.

Nonconformity: Uses, lots, parcels or structures that do not conform to the present bylaws.

Use Nonconformity: A use of land, lot, or structure, which does not comply with the provisions of Section 305 of this Ordinance.

Dimensional Nonconformity: A structure, lot or land or part thereof not in conformance with the provisions of Section 305 of this Ordinance.

Non-Residential Structure or Use: All uses of buildings, structures, or land except for one-family, two-family, and multi-family dwellings.

Notice of Violation: A legal instrument issued by the Zoning Administrator under the provisions of 24 V.S.A. 117 §4451(a)(2) to establish that a violation of one or more of the provisions of this Ordinance has been committed on a subject property, and initiating a legal enforcement action.

Official Zoning Map: The one true copy of the Town Zoning Map located in the office of the Town Clerk.

Office: A room or groups of rooms or portion of a building for conducting the affairs of a business, profession, government or service industry, administrative, executive, professional, research, or similar organizations providing no merchandise to be sold.

Open Space: Land not occupied by structures, buildings, streets, rights-of-way, and parking lots.

Outdoor Recreation: Land, structure, premises, or use operated by public agency or private business to provide outdoor recreational opportunities; includes, but is not limited to, archery range, golf course, driving range, skiing facility, skating rink, riding stable, concert, carnival, circus, fair, hunting preserve, marina, beaches, ball fields, playgrounds, parks, sports facilities, and automobile or motorcycle race tracks or other similar types of outdoor recreation; and may or may not require a user's fee.

Park, Municipal: Any park or recreation area or facility owned by the Town of Sudbury.

Parking Space: A space, measuring nine feet by twenty-two feet, for off-street parking of a motor vehicle, not including access driveway, and having direct access to the street.

Pedestrian Walk: A right-of-way, path or trail reserved for use by pedestrian traffic, from which all wheeled or tracked vehicles, motorized or otherwise, such as automobiles, trucks, motorcycles and all-terrain vehicles, snowmobiles and bicycles are banned.

Performance Bond: A document issued either by a bonding or surety company approved by the legislative body or by the owner with security acceptable to the legislative body, in an amount sufficient to cover the full cost of said required improvements and their maintenance for a certain period of time as is estimated by the Planning Commission or such municipal departments or officials as the board may designate. Such bond or other security shall provide for, and secure to the public, the completion of any improvements which may be required and for the maintenance thereof.

Permitted Use: Use specifically allowed in the district.

Planned Unit Development: One or more lots, tracts, or parcels of land to be developed as a single entity, the plan for which may propose any authorized combination of density or intensity transfers or increases, as well as the mixing of land uses. This plan, as authorized, may deviate from bylaw requirements that are otherwise applicable to the area in which it is located with respect to lot size, bulk, or type of dwelling or building, use, density, intensity, lot coverage, parking, required common open space, or other standards.

Plat: A map or representation of a tract of land, showing the surveyed lot lines and streets.

Final Plat: The final drawings of a subdivision which is filed for record with the Town Clerk.

Preliminary Plat: A map or plan indicating the proposed layout of the subdivision for consideration by the Planning Commission.

Pre-Existing Lot: A lot in existence prior to 1972 Zoning Bylaws. May or may not meet minimum area, width, depth required in zoning district.

Principal Building: A building in which the primary use of the property on which it is located is conducted. Attachments are a part of a principal building.

Public System: A system providing a utility for public, domestic, commercial or industrial uses to ten or more users.

Quarry: A lot or land used for the purpose of extracting stone, sand, gravel, or top soil for sale or to be processed for commercial purposes.

Race Track: A private or public facility which provides for competitive racing of animals and/or motorized vehicles.

Recreation, Indoor: Bowling alley, theater, pool hall, arcade, skating rink, gymnasium, or other similar places of indoor recreation.

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 towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Recycle: To use solid waste materials for the production of raw materials or finished products, but shall not include the processing of solid waste to produce energy or fuel products.

Recycling Center: Any place, property or structure, whether in connection with a business or not, used for the collection, temporary storage, processing or resale, - with the intent to recycle - of waste, paper, glass, scrap metal, plastic or styrofoam materials which can be recycled. Materials stored at the recycling center must be removed within six (6) months of the date of arrival. In addition, a recycling center must be certified by the Solid Waste Management Division of the Agency of Natural Resources to receive the recyclable materials. Bottle Redemption Facilities, Junk Yards, and motor Vehicle "Graveyards" are not included in this definition.

Renewable Energy Resources: Energy available for collection or conversion from direct sunlight, wind, running water, organically derived fuels, including wood and agricultural sources, waste heat, and geothermal sources.^[1]

Renewable Energy Structure: A structure that captures energy for existing flows of energy, from on-going natural processes, such as sun, wind and water.

Residential Apartment (Multi-Family Structure): A building or portion thereof, designed for occupancy by three or more families living independently of each other.

Residential Care Home: A facility that combines housing, health and supportive services to support resident independence and aging in place. At a minimum, assisted living residences shall offer, within a home-like setting, a private bedroom, private bath, living space, kitchen capacity, and a lockable door. Assisted living shall promote resident self-direction and active participation in decision-making while emphasizing individuality, privacy and dignity. (Also known as an **Assisted Living Residence**).

Resubdivision: A change in a recorded subdivision plat that affects any legally recorded map.

Restaurant: A public eating establishment whose primary function is the preparation and consumption of food.

Retail Sales: Any business concerned primarily with the sale of groceries, produce, products, goods, equipment or commodities.

Right-of-Way: A strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by a street, trail, water line, sanitary sewer, utilities or facilities. For the purposes of this Ordinance, a right-of-way for any purpose, including a Town right-of-way for highway purposes, shall not be considered a pre-existing lot line.

Road, Public: A thoroughfare, highway, street or public way, constructed and maintained for public travel, open and available for public use; includes any state highway and all Class II and III town roads, as indicated in the latest Town Highway Map and official Zoning Map. This shall include the right-of-way.

Class 2 town highways: Those town highways selected as the most important highways (after state roads) in each town. As far as practicable they are selected with the purpose of securing trunk lines from town to town, and to places that, by their nature, have more than the normal amount of traffic.

Class 3 town highways: Those town highways that make up the majority of local roads. The minimum standards for Class 3 highways are a highway negotiable, under normal considerations, all seasons of the year by a standard manufactured pleasure car. This would include, but not be limited to, sufficient surface and base, adequate drainage, sufficient width, and suitable for maintenance.

Class 4 town highways: All other town highways. The Selectboard determines which highways are Class 4 town highways.

Road, Private: A thoroughfare, highway, street or right-of-way that has not been accepted by the town for maintenance and improvement.

Self-Service Storage Facility. A building or group of buildings consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods.

Setback: An open space at grade between a building and adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of the rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

Front Setback: The yard between the centerline of the right-of-way and the front line of a principal building extended to the sidelines of the lot.

Rear Setback: The yard between the rear lot line and the rear line of a principal building extended to the sidelines of the lot.

Side Setback: The yard between the side lot line and the side yard line of the principal building extended to the front and rear yards.

Shooting Range: A public or private facility which provides indoor and/or outdoor facilities for the practice of marksmanship, and/or the adjustment and sighting of firearms; includes buildings, premises and access thereto.

Sign: Any device or structure for visual communication that is used for the purpose of bringing information to the attention of the public.

Site Plan: A plan, to scale, showing uses and structures proposed for a parcel of land as required by this Ordinance. It includes lot lines, streets, building sites, open space, buildings, major landscape features, and proposed utility lines, if any.

Sketch Plan: An informal drawing of a proposed subdivision.

Social Club: Building or use catering exclusively to club members and their guests for recreational or service purposes.

Solar Collector: A device or structure that transforms direct solar energy into thermal, chemical, or electrical energy.

Solar Energy System: An assembly consisting of a solar energy collector, an energy storage facility, where used, and components for the distribution of transformed energy, to the extent they cannot be used jointly with a conventional energy system. Passive solar energy systems, those of which use natural or architectural components to collect and store solar energy without using external mechanical power, are included in this definition.

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

Stable, Commercial: An agricultural accessory structure intended for occupancy by four or more equines, which provides for the shelter, care and feeding of the resident animals. If the stable is not part of a farming enterprise, as defined by 10 V.S.A. 151 §6001(22), but is operated by a riding club, an equestrian academy or some other such commercial entity, it shall not be exempted from municipal permitted, as provided for in 24 V.S.A. 117 §4413(d).

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 the excavation for a basement, footing, piers, or foundations for the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or shed 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.

Street: A public thoroughfare, including road, highway, drive, land, avenue, place, boulevard, and any other thoroughfare that affords the principal means of access to abutting property.

Street Line: Line at the edge of the right-of-way of a street or road, or public way, as dedicated by deed, easement, right-of-way, or other proper instrument of record. Where the width of the street is not established, the street line shall be considered to be twenty-five (25) feet from the centerline of the traveled portion thereof.

Structure: Anything constructed or erected that requires permanent location on the ground, or is attached to something located on the ground, except a wall, fence or roof-mounted fixtures. For floodplain management purposes, *Structure* means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *Structure*, for insurance purposes, means: (a) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; (b) A manufactured home (“a manufactured home,” also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or (c) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community’s floodplain management and building ordinances or laws. For the latter purpose, “structure” does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in (c) of this definition, or a gas or liquid storage tank.

Subdivision: The division of a lot, tract or parcel of land to create two or more lots, tracts, parcels or other divisions of land.

Subdivision, Major: The division of a lot, tract or parcel of land, creating three or more lots, which includes the subdivided lot, or portion thereof (lands remaining).

Subdivision, Minor: The division of a lot, tract or parcel of land, creating two lots, which includes the subdivided lot, or portion thereof, and lands remaining for the purpose, whether immediate or future, of sale, lease, contract, legacy, or building development; or resubdivision.

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: For purposes of the flood insurance regulations: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or, (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Sites.

Swimming Pool: A water-filled enclosure, designed and used for swimming and bathing.

Telecommunication Facility: A tower or other support structure, including antennae, that will extend 20 or more feet vertically, and related equipment, and base structures to be used primarily for communication or broadcast purposes to transmit or receive communication or broadcast signals.

Telecommunication Tower: A guyed, monopole, or self-supporting lattice tower, constructed as a free standing structure or in association with a building, other permanent structure or equipment, containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication.

Temporary Structure: A structure designed for use as a shelter or storage space while a permanent dwelling is under construction, undergoing substantial repairs or reconstruction, or for use as a social gathering place for residential or communal events.

Timber Access Road: Temporary road or drive to provide access to timber operations and removal of logs, pulp, firewood, bark, and chips, when such road or drive either

enters upon the public way, or crosses land of another; requires an access permit from the Selectboard.

Time: In the computation of time, where an event is either required or permitted to occur on or after a specified period of time measured from another event, the first day shall not be counted and the final day shall be counted.

Trailer Park/Campground/R.V. Park: Privately owned land leased to owners or occupants of transient trailers, recreational vehicles or tents.

Trailer/Recreational Vehicle: A vehicle intended to be used for a temporary dwelling, travel and recreational activities. It may be equipped to receive a supply of running water and be provided with bath facilities, flush toilet and sanitary connections.

Utility, Public: An agency that, under public franchise or ownership, provides the public with electricity, gas heat, steam, communication, transportation, water, sewage collection, or other similar services, and is regulated by a governmental agency.

Utility Right-of-Way: See **(Right-of-Way)**.

Variance: A departure from this Ordinance which may be granted or denied by the Zoning Board of Adjustment. The conditions specified in this Ordinance must exist in order for a variance to be granted.

Veterinary Clinic/ Animal Hospital: A building or premises for the medical or surgical treatment of animals, with or without boarding provisions.

Waiver: A mechanism to reduce zoning dimensional requirements according to a process specified in Section 809.

Warehouse: A building or structure where wares, goods/merchandise are stored before distribution to jobbers, retailers, or the general public. This definition includes bulk storage and bulk sale outlets.

Waters, Public: Any river, stream or body of water having a surface area of at least twenty (20) acres which is located either partially or entirely within the State of Vermont or forms a portion of its boundary, and which is capable of being used by the public as a means of passage, transportation, or recreation.

Wildlife Refuge: Land area, public or private, the main purpose of which is conservation and or preservation of wildlife species and habitat, and associated educational activities.

Wind Energy Conversion System: Any device such as a wind charger, windmill or wind turbine which converts wind energy to a form of usable energy.

Wood Processing Facility/Sawmill: Land, buildings, and associated premises for the conversion of trees, into logs, pulp, bark, sawdust, lumber, firewood, and other products.

ARTICLE III: ZONING DISTRICTS

Section 301 - Establishment of Zoning Districts

The Town of Sudbury hereby establishes the following five (5) major Zoning Districts and one (1) overlay Zoning District.

- A. Conservation
- B. Lakeshore Residential
- C. Village Residential
- D. Rural Residential
- E. Agricultural Protection
- F. Flood Hazard Overlay District

The minimum lot sizes, setback requirements, lot frontage requirements and height limitations for each district are specified in **Table I: Lot Size, Setbacks, Yards, Height Limitations**.

The permitted uses and conditional uses allowed in each district are as specified in **Table II: Table of Uses**.

Section 302 - District Descriptions

Conservation District (Con.)

Purpose: To keep land which is unsuitable for development in its natural state.

Description:

Otter Creek Flood Plain – all lands below the 380-foot contour line of elevation on the U.S. Geological Survey (U.S.G.S.) Map.

Government Hill – all lands on the peak of Government (or Signal) Hill above the nine hundred (900) foot contour line on the U.S.G.S. Map.

Bald Hill – all lands on the peak of Bald Hill (BM 713) above the five hundred forty (540) foot contour line on the U.S.G.S. Map.

High Pond Reservoir – lands located in the southwest corner of Town formerly known as the Burden Estate.

Lakeshore Residential (R-½)

Purpose: To provide for both seasonal and year-round residential use and enjoyment of Sudbury's significant water bodies, while maintaining the quality of

the scenic beauty, recreational opportunities, environmental quality and overall natural environment of the lakes and their shores.

Description: All lands abutting Lake Hortonia, Burr Pond, and Echo Lake to a depth of two hundred and fifty (250) feet from the mean water line.

Village Residential (R-1)

Purpose: To promote a village center's social and physical character by providing an opportunity for residential growth and the establishment of local businesses of a scale compatible with Sudbury's rural nature.

Description: All lands including Sudbury Hill on both sides of Vermont Route 30 north from the intersection of Vermont Route 73 West (BM471) to a distance of twenty-five hundred (2500) feet north of said intersection, and a depth of four hundred (400) feet east and west of the centerline of the Vermont Route 30 right-of-way.

Rural Residential (R-10)

Purpose: To provide land area for traditional rural development while accommodating demand for new rural housing, farming, forestry and other rural land uses which maintain the natural and scenic qualities.

Description: This includes all lands not in the other districts, and any other properties where development rights have been sold.

Agricultural Protection (Ag.P.)

Purpose: To prohibit development of good agricultural land.

Description: Lands surrounding the Vail House, and any other properties where development rights have been sold.

Flood Hazard Overlay (FHO)

Purpose: It is the purpose of this Ordinance to:

- (a) Minimize and/or prevent 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 and other flood related hazards; and
- (b) Ensure that the design and construction of development in flood and other hazard areas are accomplished in a manner that minimizes or eliminates the potential for flood and loss or damage to life and property; and

- (c) Manage all flood hazard areas designated pursuant to 10 V.S.A. 32 §753; and
- (d) Make the state, municipalities, and individuals eligible for federal flood insurance and other federal disaster recovery and hazard mitigation funds as they may be available.

Uses within the Flood Hazard Overlay District are subject to the conditions of Section 505.

Description: This Ordinance shall apply to all areas in the Town of Sudbury, Vermont, identified as areas of special flood hazard in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of this Ordinance.

In areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program, base flood elevation and floodway information available from state and federal agencies or other sources shall be obtained and reasonably used.

Section 303 - Zoning Map

The location and boundaries of Zoning Districts are established as shown on the Official Zoning Map, and in accordance with provisions in this regulation. The Zoning Map is hereby made a part of this Ordinance. No changes shall be made to the Official Zoning Map except in accordance with the procedures for amending this Ordinance. Regardless of the existence of copies of the Zoning Map that may from time to time be made or published, the Official Zoning Map shall be that located in the Town Clerk's office.

Section 304 - Interpretation of Zoning District Boundaries

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

- (A) Boundaries that approximately follow the centerlines of roads, streams, transportation and utility rights-of-way shall be construed to follow such centerlines. When opposite sides of a street or road lie in different districts, the boundary shall be deemed to be the center of the public right-of-way.
- (B) Boundaries that approximately follow lot lines shall be construed to follow such lot lines.
- (C) Boundaries that follow shorelines shall be construed as the low mean water level.

(D) When opposite sides of a lake, pond, marsh, or island lie in different districts, the boundary shall be deemed to be the center thereof.

(E) The Zoning Administrator shall determine the relationship of a proposed development to the area of special flood hazard, using, where available (i.e., Zone A), the base flood elevations and floodway limits provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps. The information presented on any maps, or contained in any studies, adopted by reference is presumed accurate and shall be used until shown to be otherwise. If uncertainty exists with respect to the horizontal boundaries of the Special Flood Hazard Area or the floodway boundary on the map, the location of the boundary shall first be determined by the Zoning Administrator. If the applicant disagrees with the determination made by the ZA, a Letter of Map Amendment from FEMA shall constitute proof.

Section 305 - Minimum Dimensional Requirements for Zoning Districts

(A) These dimensions are the minima required for the Zoning Districts (actual dimensions may be larger).

<u>TABLE I- Lot Size, Setbacks, Yards, Height Limitations</u>	Conservation	Lakeshore Residential R-1/2	Village Residential R-1	Rural Residential R-10	Agricultural Protection
Lot size (acres)	N	½	1	10	N
Frontage (feet)	N	100	100	100	N
Lot Depth (feet)	N	200	400	400	N
¹ Front Yard Setback (feet)	N	35	65	65	N
Side Yard Setback (feet)	N	25	30	40	N
Rear Yard Setback (feet)	N	25	30	40	N
Wetland/Waters Protection Strip (feet)	50	25	50	50	50
Minor Subdivision (acres)	N	1	2	20	N
Major Subdivision (acres)	N	1.5	3	30	N
Access Road (width-feet)	N	30	30	30	N
Cluster Development Parcel (acre)	N	N	N	20	N
² Maximum Height of Building (feet)	N	35	35	35	N

Notes: (N) = Not allowed

¹ Front Yard Setback shall be measured from the centerline of the existing roadway. When built not to be more than 8 inches above grade level and not to exceed 120 sq.ft. in area, decks, unenclosed patios, paved courtyards and sitting areas may be allowed within the setback.

² Height measured to average roof height between eaves & ridgepole.

Lot coverage for R-1 and R-10 Districts shall not be more than 10%.

Lot coverage for R-1/2 shall not be more than 15%.

Open decks, porches, carports, garages, enclosed and/or roofed porches do count as "structures"; steps and handicapped ramps do not count as "building."

(B) Required Off-Street Parking

All parking shall be off-street and excludes the access driveway in order to insure the safe and continuous flow of traffic and emergency vehicles. For every dwelling unit hereinafter erected, altered, or extended, off-street parking for two (2) vehicles, each measuring at least 9' x 22' shall be provided. For all other uses, the required number of off-street parking spaces shall be determined by review of the respective Appropriate Municipal Panel under Article V for conditional uses and/or Article VII for development review.

TABLE II- Table of Uses

Any uses not specifically permitted by this Table are considered to be **PROHIBITED**, unless approved by the Zoning Board of Adjustment as **permitted non-conforming uses** under the provisions of Article V of this Ordinance.

USES	Conservation	Lakeshore Residential	Village Residential	Rural Residential	Agricultural Protection
Airstrip, Helipad	(N)	(N)	(N)	C	(N)
Auto repair/body shop	(N)	(N)	C	C	(N)
Auto service station w/retail store	(N)	(N)	C	C	(N)
Bed and breakfast lodging	(N)	P	P	P	(N)
Campground / Trailer/R. V. park	(N)	C	C	C	(N)
Childcare facility (Family)	(N)	C	C	C	(N)
Childcare facility	(N)	P	P	P	(N)
Club, social	(N)	C	C	C	(N)
Community care facility	(N)	C	C	C	(N)
Community facility	(N)	C	C	C	(N)
Dwelling – Seasonal/Camp	(N)	P	P	P	(N)
Dwelling – Single family	(N)	P	P	P	(N)
Dwelling - Two-family	(N)	C	C	C	(N)
Dwelling - Multi-family (3-4 units)	(N)	C	C	C	(N)
Dwelling - Multi-family (5+ units)	(N)	C	C	C	(N)
Exterior boiler (hot-water heating)	(N)	(N)	C	C	(N)

USES	Conservation	Lakeshore Residential	Village Residential	Rural Residential	Agricultural Protection
Forestry	P	P	P	P	P
Home-based business/ cottage industry	(N)	C	C	C	(N)
Kennel	(N)	(N)	(N)	C	(N)
Commercial lodging	(N)	C	C	C	(N)
Machinery repair shop, minor	(N)	C	C	C	(N)
Mobile home park	(N)	C	C	C	(N)
Office, business/professional	(N)	C	C	C	(N)
Planned unit development (PUD)	(N)	C	C	C	(N)
Race track	(N)	(N)	(N)	C	(N)
Recreation, indoor	(N)	C	C	C	(N)
Recreation, outdoor	(N)	C	C	C	(N)
Recycling center	(N)	N	C	C	(N)
Restaurant, bar	(N)	C	C	C	(N)
Retail store	(N)	C	C	C	(N)
Sand, gravel, soil extraction quarry	(N)	(N)	(N)	C	(N)
Self-service storage facility	(N)	C	C	C	(N)
Shooting range	(N)	(N)	(N)	C	(N)
Solar passive hot-water heating array	(N)	C	C	C	(N)
Ground-based solar photovoltaic panel array	(N)	C	C	C	(N)
Telecommunications towers/facilities	(N)	(N)	C	C	(N)
Veterinary practice	(N)	(N)	C	C	(N)
Warehouse	(N)	(N)	(N)	C	(N)
Wildlife refuge	P	P	P	P	P
Wind turbine tower	(N)	(N)	C	C	(N)
Wood processing/ sawmill	(N)	(N)	(N)	C	(N)

Notes: (N) = Not Allowed

P = Means the use is permitted as a matter of right after obtaining a permit in accordance with Section 805.

C = Means that the use is permitted in the designated district but subject to review by the Zoning Board of Adjustment in accordance with the conditions set forth in Article V.

Some of the above uses may also require the issuance of State permits.

ARTICLE IV: GENERAL REGULATIONS

Section 401 - Compliance with Regulations

(A) No land, building, or premises, or part thereof, shall hereafter be used, and no building or part thereof, or other structure, shall be constructed, reconstructed, extended, enlarged, moved or altered, except in conformity with this Ordinance.

(B) No lot shall have an area, width, or a front-, side- or rear-yard setback dimension less than that set forth, unless otherwise provided for, in this Ordinance.

(C) No building or buildings shall occupy in the aggregate a greater percentage of lot area than set forth, unless otherwise provided for, in this Ordinance.

Section 402 - Access, Driveway and Frontage Requirements

(A) No development may be permitted on lots which do not have either one hundred (100) feet of frontage on a public road (Class 1, 2 or 3) or public waters or, with the approval of the Planning Commission, access to such road or waters by a permanent easement or right-of-way at least thirty (30) feet wide. The Commission may require the subdivider to improve the easement or right-of-way to meet the Town's road specifications.

(B) Any activity for which a zoning permit is required and which involves the construction or modification of a driveway or right-of-way intersecting with a Town right-of-way shall obtain an access permit from the Road Commissioner prior to the issuance of a zoning permit with specific standards to be set by the Selectboard.

(C) Access should be available for all emergency vehicles to the principal entrances to structures.

(D) Access shall be limited to the approved width and shall not extend along the length of the road frontage.

(E) An access shall be located a minimum of 50 feet from an intersection of public rights-of-way unless otherwise approved by the Zoning Board in accordance with conditional use approval.

Section 403 - Corner Lot Exceptions

Any yard adjoining a street shall be considered a front yard. A corner lot shall be considered to have only front yards and side yards.

Section 404 - Reduction of Lot Area

No lot shall be so reduced in area that the area, yards, lot width, frontage or other requirements of this Ordinance shall be smaller than herein prescribed for each District, with the exception of lot size averaging. The provisions of this section shall not apply when part of a lot is taken for a public purpose.

Section 405 - Existing Small Lots

- (A) Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of this Ordinance may be developed for the purpose permitted in the District in which it is located, even though not conforming to minimum lot size requirements. (The Town may prohibit development if either such lot is less than one-eighth acre or the lot has a minimum width or depth dimension of less than 40 feet).
- (B) If such lot subsequently comes under common ownership with one or more contiguous lots, the lot shall be deemed merged with the contiguous lot for purposes of this chapter. However, such lot shall not be deemed merged and may be separately conveyed, if:
- (1) the lots are conveyed in their pre-existing, non-conforming configuration;
 - (2) on the effective date of this Ordinance, each lot had been developed with a water supply and wastewater disposal system;
 - (3) at the time of transfer, each water supply and wastewater system is functioning in an acceptable manner; and
 - (4) the deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply.
- (C) A failed wastewater system means the system functions in a manner:
- (1) that allows wastewater to be exposed to the open air, pool on the surface of the ground, discharge directly to surface water, or back up into a building or structure unless the approved design of the system specifically requires the system to function in such a manner;
 - (2) so that a potable water supply is contaminated or rendered not potable;
 - (3) that presents a threat to human health; or
 - (4) that presents a serious threat to the environment.

Section 406 - More Than One Use on a Lot or of a Structure

Nothing in this ordinance shall prevent two separate uses from occupying a single lot (meeting minimum lot size) or structure, provided that each use complies with all other applicable provisions of this ordinance. There shall be no more than one principal residential building on a lot, except where multi-family uses are allowed with conditions.

Section 407 - Buildings on Lots

In all districts only one principal building shall be placed on a lot, except where multi-family uses are allowed with conditions. This requirement shall not apply to compact subdivisions or to working farms where one additional residential structure is permitted for use by a farm employee and farm structures are also permitted.

Section 408 - Lots in More Than One Zoning District

Where a district boundary line divides a lot of record at the time such line is adopted, the regulations for the less restricted part of such lot shall extend not more than thirty (30) feet into the more restricted part, provided the lot has frontage on a street, on public waters, or is accessed by a thirty (30) foot right-of-way that has been approved by the Planning Commission, in the less restricted district.

Section 409 - Division of Lots

No lot shall be divided into two or more lots unless all lots resulting from each such division conform to all applicable regulations of the zoning district in which the property is located.

Section 410 - Contiguous Lot Area

A land area shall be considered contiguous although crossed, bisected, or otherwise encumbered by State or Town highways, roads, rights-of-way, or easements where land is not owned in fee simple by the State or Town; utility lines and rights-of-way; and any private road right-of-way, or easement, which provides access to other public roads or public waters.

Section 411 - Required Area for Yards

Space required under this Ordinance to satisfy area, yard or other open space requirements in relation to one (1) building shall not be counted as a part of a required open space for any other building.

Section 412 - Construction Approved Prior to Amendment of Bylaws

The Town shall not require any change in the plans for, or construction of, a structure or use for which a Zoning Permit has been issued and which has subsequently been made non-complying or non-conforming by any amendment to these Bylaws, if these activities authorized by the Zoning Permit are completed while the permit is valid.

Section 413 - Equal Treatment of Housing

(A) This Ordinance shall not have the effect of excluding mobile homes, modular homes, or other forms of prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded.

(B) This Ordinance shall not have the effect of excluding housing to meet the needs of the population as determined in the Town Plan.

Section 414 - Accessory Buildings and Dwelling Units

(A) All accessory buildings must conform to lot setback, lot coverage and building height requirements.

(B) An accessory dwelling unit shall be permitted wherever an owner-occupied single-family dwelling is permitted, provided there is sufficient wastewater capacity, the unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling or 900 square feet, whichever is greater, and that it complies with the required lot setbacks, coverage and parking requirements.

Section 415 - Residential Care Home or Group Home

(A) A state licensed or registered residential care home, or group home, serving not more than eight persons who are developmentally disabled or physically handicapped, shall be considered by right to constitute a permitted single-family residential use of property.

(B) A state licensed or registered residential care home, or group home, serving more than eight persons who are developmentally disabled or physically handicapped, shall be considered a conditional use in districts permitting multi-family dwellings.

Section 416 - Child Care Facilities

(A) A state registered or licensed family child care home or facility serving six or fewer children or no more than six full-time children and four part-time children, as defined in VSA Title 33 4902(3)(A) shall be considered by right to constitute a permitted single family residential use of property.

(B) A state registered or licensed family child care home serving more than six full-time children and four part-time children, as defined in VSA Title 33 4902(3)(A) shall be considered a conditional use in districts permitting residential uses.

Section 417 - Home Occupations

(A) Home occupations are permitted in all districts in which residences are permitted. Residents may use a minor portion of a dwelling or accessory structure for an occupation which is customary in residential areas and which does not change the character of those areas provided:

- (1) The dwelling, accessory structures and the lot maintain a residential appearance at all times.

- (2) The home occupation is clearly secondary to the use of the site for residential purposes.
- (3) The use is conducted within a portion of the dwelling or a building accessory thereto by a resident or the principal practitioner of the home occupation, and shall not have more than one-full-time, non-resident employee.
- (4) There are no retail sales unless the items sold are the product of the owner's own labor.
- (5) The use does not generate unsafe or intrusive traffic, parking, noise, vibration, glare, fumes, odors or electrical interference.
- (6) Adequate off-street parking shall be provided.
- (7) A sign shall not exceed six (6) square feet and shall not be illuminated.
- (8) A permitted home occupation is granted to the applicant for the length of time that the applicant occupies the dwelling. The permit shall expire upon relocation by the applicant and shall neither remain with subsequent occupants of the dwelling nor transfer to a new location with the original applicant.
- (B) A home occupation includes, but is not limited to the following: dressmaking, home cooking, sewing, tailoring, teaching, the practice of an accountant, architect, artist, dentist, photographer, doctor, engineer, insurance agent, lawyer, musician, realtor, barber or beautician, computer programming.
- (C) A home occupation shall not include commercial stables or kennels, garages or shops for repair of motor vehicles, or restaurants.
- (D) Other home occupations that are neither specifically permitted nor prohibited shall be considered as conditional uses and shall comply with the provisions of Article V.

Section 418 - Agricultural Roadside Stands

Seasonal roadside stands for the sale of agricultural products may be installed on the producer's property and may be in place from March 1st to December 31st, shall be at least forty-five feet from center of State or Town highway, shall provide adequate parking, and safe access to the public road.

Section 419 – Campers

- (A) Campers must be parked:
 - (1) In an approved campground;
 - (2) In an approved camper sales lot;
 - (3) The owner may park a camper on his/her own property provided:
 - (a) it is sited in compliance with the required setbacks for the district in which it is located;
 - (b) it is not used as a living quarters; and
 - (c) it is not connected to water or sewer utilities.
- (B) Invitees may also park campers in the same manner as required of any owner on his/her own property, with only one invited camper allowed per residential lot for a period not to exceed one hundred twenty (120) days.

Section 420 - Mobile and Manufactured Homes

(A) Unless the placement of the mobile and/or manufactured home would constitute a mobile/manufactured home park, as defined in Article II of this Ordinance, a mobile and/or manufactured home shall be permitted in the same districts in which a conventional single family dwelling is permitted, provided that the mobile and/or manufactured home meets all the requirements that must be met by a conventional single family dwelling.

(B) Upon approval of the Planning Commission or Zoning Board, mobile and/or manufactured homes or campers without a permanent foundation to be located on the construction site of a new residence for a period not to exceed one (1) year requires a temporary permit, as stipulated in Section 805(B).

Section 421 - Mobile and Manufactured Home Parks

In addition to complying with the provisions of all applicable state statutes, mobile and/or manufactured home parks in the Town of Sudbury shall meet the following requirements:

(A) No person shall construct or operate a mobile and/or manufactured home park without first obtaining site plan approval from the Planning Commission and a permit from the Zoning Administrator. Before such permit issued, there must be a favorable recommendation by a majority of the Planning Commission and a performance bond from the operator of the park, to assure that the park is constructed and maintained in a satisfactory manner.

(B) The application for such a home park shall follow the procedure of Article VIIa.

(C) The Planning Commission may accept the proposed plans, accept the plan with recommended changes or conditions or reject the plan. The Commission shall submit the application and plans to the Zoning Administrator, with the Commission's actions regarding the permit.

(D) The Planning Commission may require any other improvements or facilities before approving the plan in the interest of public safety, health and welfare.

Section 422 - Mobile and/or Manufactured Home Park Standards

(A) Each mobile and manufactured home park or trailer park shall have a minimum area of ten (10) acres.

(B) The park shall be located on a site graded to insure adequate drainage of surface water, sub-surface water, sewage, and freedom from stagnant pools.

(C) Parks shall provide for individual mobile and manufactured home spaces, access roadways, parking and common open space.

(D) Each mobile and/or manufactured home space shall contain a minimum of 8,000 square feet in area, and shall be a minimum of 80 feet wide by 100 feet deep and shall front onto an access drive.

- (E) No mobile and/or manufactured home or trailer may be located closer than one hundred (100) feet to an abutting property line or existing dwelling or public right-of-way line.
- (F) A minimum of two gravel or paved parking spaces shall be provided for each mobile and/or manufactured home lot, and shall be a minimum of nine (9) feet wide by twenty-two (22) feet long. An extra parking space for every two mobile homes shall be provided for visitor parking.
- (G) Access roadways within the park shall be at least 50 feet in width, with a paved or well graveled, hard packed surface of at least 24 feet in width and 24 inches in depth of compact gravel base. Access must be maintained in good condition throughout the year.
- (H) Each mobile and/or manufactured home lot shall have a minimum of two shade trees.
- (I) Appropriate underground utilities shall be provided for each mobile and/or manufactured home space.
- (J) Provision shall be made for contracted trash and garbage collection and disposal. All trash and garbage cans shall be concealed at all times by a fence enclosure or building in a properly allotted space, except at collection times.
- (K) If each mobile and/or manufactured home or trailer space is served by an individual septic tank, the minimum size of the space shall then be the same as in a residential district not served by a public sewer.
- (L) Each park shall be screened as approved by the Planning Commission.
- (M) Each mobile and/or manufactured home shall be located on a permanent concrete pad, which provides support for the structure. All mobile and/or manufactured homes in the mobile and manufactured home park shall be used only for residential purposes. No commercial activity of any kind shall be permitted.
- (N) The mobile and/or manufactured home park shall conform to the requirements set forth in Vermont State statutes.
- (O) A copy of rules and regulations set up by each mobile and/or manufactured home park or trailer park shall be presented to the Board and will be put on file upon acceptance in the Town Clerk's office for future reference.

Section 423 - Signs and Obstruction of Vision

- (A) **Signs** - The following signs are permitted when located on the immediate property. The dimensions are per side, with double-sided signs permitted.
- (1) One (1) non-illuminated home occupation sign, not more than six (6) square feet in area.
 - (2) One (1) non-illuminated home-based business sign not more than eight (8) square feet in area.
 - (3) One (1) non-illuminated community or government facility sign not more than twelve (12) square feet in area.
 - (4) One (1) commercial sign not exceeding sixteen (16) square feet, which may be illuminated by a steady light source. Such lighting will not illuminate or reflect onto other properties, or obstruct or impair the vision of drivers of motor vehicles.
 - (5) One (1) temporary real estate sign, not exceeding six (6) square feet.
- (B) **Wall, Projecting and Ground Signs** –

- (1) Projecting signs shall not extend beyond the street line; shall not extend more than four (4) feet from the building wall; and shall not be less than ten (10) feet above the surface of a public walkway area.
- (2) Ground signs shall not exceed twelve (12) feet in height above the finished grade, and shall be set back so as not to interfere with vision, traffic flow and normal highway maintenance practices.
- (C) Commercial roof signs shall not be permitted in any zoning district.
- (D) In all districts, on a corner lot, within the triangular area formed by the intersection of two street property lines and a third line joining them at points forty (40) feet away from the intersection, there shall be no obstruction to vision between the height of two (2) feet and ten (10) feet above the grade of each street. Furthermore there shall be no obstruction which impairs the vision of motor vehicle operators entering or traveling upon a public street.

Section 424 - General Performance Standards

No land or building in any zoning district shall be used or occupied in any manner so as to create dangerous, injurious, noxious or otherwise objectionable conditions in such a manner or in such amount as to adversely affect the reasonable use of the surrounding area or adjoining properties. The following specific standards are set forth to implement this purpose, as are standards set forth elsewhere in this Ordinance. The burden of proof that the following standards are met shall be on the applicant.

Section 425 - Glare, Lights and Reflection

No glare, lights or reflection shall be permitted which are a nuisance to other property owners or tenants, or which could impair the vision of a driver of any motor vehicle, or which are detrimental to public health, safety and welfare.

Section 426 - Fire, Explosive and Safety Hazards

No fire, explosive or safety hazard shall be permitted which significantly endangers other property owners or which results in a significantly increased burden on municipal facilities. The storage of any highly flammable liquid in tanks above ground with unit capacity greater than five hundred and fifty (550) gallons shall be prohibited.

Section 427 - Noise, Smoke, Heat, Vibration, Dust, Odors, Electrical Interference

Noxious or excessive noise, smoke, heat, vibration, dust, odors or electrical interference which is detectable at the property line shall not be permitted. Specifically, the sound pressure level should not exceed seventy (70) decibels adjusted (DBA) at the property line at any time, except for agricultural and silvicultural uses, and Town of Sudbury permitted sand and gravel extraction activities.

Section 428 - Wetland, Rivers, Streams and Bodies of Water

All wetlands, rivers, streams and bodies of water, as identified on Geological Survey Maps, shall be protected by an undisturbed vegetation strip fifty (50) feet wide (25 feet in R-1/2), measured with respect to the top of the stream bank. Direct discharge into wetlands and waters is prohibited.

ARTICLE V: CONDITIONAL USES

The Zoning Administrator shall not issue a Zoning Permit for any use or structure that requires conditional use approval or for the expansion or enlargement or change in use of an existing conditional use until the Zoning Board of Adjustment grants such approval. The Board shall make findings on general and specific standards, hold hearings and attach conditions, if any, as provided for in 24 V.S.A. 117 §4414(3) and all applicable sections of this Ordinance. Under the provisions of §4414(3)(A) of the Act, in any district certain uses which are not specifically identified in Table II of Section 305, with impacts similar to those uses noted in Table II that do not significantly change the character of the area as envisioned in the Sudbury Town Plan, may also be considered for conditional-use approval at the discretion of the Board if the proposed use is determined to conform to the general and specific development standards of this Ordinance, taking into consideration the appropriate conditions of Section 502 and the following:

(A) In considering its action, the Board shall make findings that the proposed conditional use shall not result in an undue adverse affect on any of the following:

- (1) The capacity of existing or planned community facilities;
- (2) The character of the area affected 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;
- (4) Bylaws and ordinances in effect;
- (5) Use of renewable energy resources.

(B) The Board shall also consider the application requirements detailed in Section 810(A). In granting conditional use approval, the Board may attach such reasonable conditions, in addition to those outlined, as it deems necessary.

Section 501 - Applications for Conditional Uses

(A) The owner and applicant (if different from the owner) shall submit two (2) sets of a site plan and supporting data to the Board, which shall include the following information presented in drawn form and accompanied by written text:

- (1) Name and address of the owner of the subject property, adjoining lands, and lands adjacent to it (including across a road); name and address of the applicant, if different from the owner; name and address of the person or firm preparing the plan; description of the property giving location, scale of the map, North point, and date.
- (2) A detailed drawing of the property showing existing features, including contours, structures, streets, utility easements, rights-of-way, land use and deed restrictions, zoning classification, existing surface waters (brooks,

ponds, etc.) and the location of proposed structures with setback distances from the lot lines indicated.

(3) Site plan showing proposed structure(s), locations and land use areas; streets, access points, driveways, traffic circulation, parking and loading spaces and pedestrian walks; utilities both existing and proposed, including placement of poles; and including water wells and sewage treatment facilities; landscaping plans, including site grading, planting design, screening or fencing, detailed specifications of planting and landscaping materials to be used; existing and proposed equipment such as propane tanks, transformers, etc.

(4) Construction sequence and anticipated time schedule for the completion of each phase for buildings, parking spaces and landscaped areas of the entire development.

(5) A traffic study, if issues of traffic safety are a concern.

(6) The location and size of proposed signs.

(7) A certification that all adjoining and adjacent property owners have been notified by mail of the application. A copy of the notice shall be filed with the certification.

(B) For proposed uses in Flood Hazard Overlay Districts see Section 505 for additional application requirements.

Section 502 - Decision and Findings

The Board shall make findings of fact and conclusions of law that the project:

(A) Shall not adversely affect the capacity of existing or planned community facilities;

(1) **Water and Sewer.** The project shall have sufficient water and wastewater disposal capacity available for its needs. The property must have adequate capability for on-site water supply and wastewater disposal in accordance with Town regulations and applicable State statutes and regulations. The Board or Commission may solicit input from the appropriate Town officials and require engineering reports by the applicant.

(2) **School Impact.** The project shall not cause an unreasonable burden on the ability of the Town or School districts to provide educational services. The Board or Commission may solicit input from the School Boards.

(3) **Municipal Impact.** The project shall not place an unreasonable burden upon the ability of the Town to provide municipal services, including but not limited to Fire, Police, Ambulance, Highway, Public Works Maintenance and Recreation. The Board or Commission may solicit input from the appropriate local officials.

(B) Shall not have an undue adverse effect on the character of the neighborhood, or area affected. "Neighborhood" means in the same area; nearby including but not limited to the area within sight and/or sound. "Character of a neighborhood" refers to the distinctive traits, qualities or attributes; its appearance and essential nature, pattern of uses, and sense of community; the factors which give it identity. A goal of the Town Plan is to allow for residential growth, coexisting with small businesses and farming while maintaining a rural character, to safeguard and improve the quality of life through health and environmental standards, to make efficient use of all resources and to protect private

property owners' rights. The existence of one conditional use shall not be interpreted as justification for another similar conditional use to be located there. When considering the "character of the neighborhood or area", the Board shall consider the following:

- (1) Existing neighborhood uses, types of buildings, noise and traffic.
- (2) Town Plan objectives including but not limited to planned developments, and neighborhood character enhancement.
- (3) Historic buildings and features; intensity, uniformity or mix of uses and buildings; mass, scale and spacing of buildings; scenic views, aesthetics, open space.
- (4) Privacy, security, identity, sense of community and cohesion.

However, a multiunit dwelling project consisting of four or fewer units located in a district allowing multiunit dwellings may not be denied solely due to an undue adverse effect on the character of the area affected.

(C) Shall not adversely affect traffic on roads and highways in the vicinity. The project shall have adequate traffic access, circulation and parking, and shall not cause unreasonable traffic congestion or unsafe conditions with respect to pedestrian or vehicular traffic or other transportation facilities. The Board or Commission shall consider:

- (1) Town traffic plans and studies; and
- (2) Traffic engineering studies that may be required of the applicant.

(D) Shall be consistent with the regulations in effect.

(E) Shall not have an undue adverse effect upon the use of renewable energy resources.

(F) Is consistent with the Site Plan requirements of Section 501.

In addition to the standards set forth above, the following standards shall apply to all applications for conditional use review within the appropriate district.

Section 503 - Home-Based Businesses/Cottage Industry

(A) No more than fifty (50) percent of the gross floor area of the principal dwelling or, if in an accessory structure, no area greater than fifty (50) percent of the gross floor area of the principal dwelling, may be used for a home-based business or a cottage industry.

(B) The dwelling, accessory buildings, and the lot maintain a residential appearance at all times.

(C) The cottage industry is clearly secondary to the use of the site for residential purposes.

(D) The use is conducted within a portion of the dwelling or a building accessory thereto by the bona fide year-round resident of the dwelling.

(E) No more than six (6) employees, in addition to the principal owner, shall be permitted.

(F) The use shall not generate traffic, parking, noise, vibration, glare, fumes, odors or electrical interference beyond what normally occurs in the applicable zoning district.

(G) Storage of equipment related to the cottage industry shall be within an enclosed structure or properly screened from adjacent residential uses and highways.

(H) Vehicle (auto, truck) bodywork or repair is not considered a cottage industry.

Section 504 – Planned Unit Developments

Planned unit development (PUD; also known as ‘cluster development’) is permitted as a conditional use only in the R-10 district to allow flexibility in design to encourage the preservation of open space, scenic vistas, agriculture, and forestry.

(A) A landowner may create a lot for development which is smaller in acreage than that required for the zoning district provided that the use of the land equal in area to the difference between the proposed development lot and the minimum lot size for the district is restricted by protective covenants.

(B) The undeveloped portion of the parcel subdivided under this regulation shall be protected by covenant and may remain either in the ownership of the developer, or owned by a landowners’ community, non-profit or public organization.

(C) The minimum activity required for such land shall be

(1) Fields shall be kept open by mowing, tilling or grazing;

(2) Forest land, managed according to a plan developed by a professional forester.

(D) Deeds of all lots involved shall contain the acreage, dimensions and location of the agricultural preservation parcel(s) with restrictions prohibiting development, and shall be filed with then Town Clerk within ninety (90) days of approval or the approval shall expire.

Section 505 - Flood Hazard District Requirements

In addition to the applicable provisions set forth in Sections 501-504 the following shall apply as a condition of approval in all flood hazard areas:

(A) The proposed development shall require obtaining 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 Town 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) In all Special Flood Hazard Areas, the ZBA shall require that sites are reasonably safe from flooding and, as a condition of approval that, all new construction and substantial improvements shall:

(1) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic or hydrostatic loads, including the effects of buoyancy; and

(2) be constructed with materials resistant to flood damage; and

(3) be constructed with methods and practices that minimize flood damages; and

(4) be 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.

(C) Development within the regulatory floodway or other encroachments is prohibited unless it has been demonstrated, through hydrologic and hydraulic analyses performed in

accordance with standard engineering practice by a registered professional engineer, that the proposed development will result in no increase in flood levels during the occurrence of the base flood.

(D) In all floodway fringe areas (including Special Flood Hazard Areas), the ZBA shall require as a condition of approval that:

- (1) the flood carrying capacity within any altered or relocated portion of a watercourse be maintained.
- (2) new and replacement water supply and sanitary sewage systems be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- (3) on-site waste disposal systems be located to avoid impairment to them or contamination from them during flooding.
- (4) manufactured homes to be placed and existing manufactured homes to be substantially improved that are:
 - (a) located outside of a manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in a manufactured home park or subdivision which has incurred substantial damage from a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated at or above the base flood elevation and is securely mounted on an adequately anchored foundation system to resist floatation, collapse, and lateral movement during the occurrence of the base flood.
 - (b) located in an existing manufactured home park, where elevating a replacement home to or above base flood elevation is not possible, the lowest floor shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely mounted on an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

(E) New subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions) that are greater than 50 lots or 5 acres, whichever is the lesser, shall include base flood elevation data which assure that it will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to assure that:

- (1) all such proposals are consistent with the need to minimize flood damage within the flood-prone area.
- (2) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage.
- (3) adequate drainage is provided to reduce exposure to flood hazards.

(F) In areas where no regulatory floodway has been designated by the National Flood Insurance Program, development or other encroachments shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The lowest floor, including the basement, of all new buildings and existing buildings to be substantially improved for residential purposes shall be one foot or more above the

base flood elevation. New non-residential buildings and existing buildings to be substantially improved for nonresidential purposes shall either meet these requirements or be dry flood-proofed to two feet above the base flood elevation. The dry flood-proofing shall be designed to be watertight, with walls substantially impermeable and with structural components having the capacity of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for a building proposed to be flood-proofed 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 Ordinance.

(G) All new construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a professional engineer or architect or meet or exceed the following minimum criteria:

- (1) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
- (2) The bottoms of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

(H) Recreational vehicles placed on sites with special flood hazard areas shall either

- (1) be on the site for fewer than 180 consecutive days, or
- (2) be fully licensed and ready for highway use, or
- (3) meet the requirement of Section 505(D)(4).

(I) A small accessory building that represents a minimal investment need not be elevated to the base flood elevation provided the building:

- (1) shall not be used for human habitation;
- (2) shall be designed to have low flood damage potential;
- (3) shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- (4) shall be firmly anchored to prevent flotation; and,
- (5) shall have service facilities such as electrical and heating equipment elevated or flood proofed.

(J) In reviewing each application for a conditional use permit in the Flood Hazard District the ZBA may also consider the following:

- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments;
- (2) The danger that materials may be swept onto other lands or downstream to the injury of others;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location;

- (6) The availability of alternative locations not subject to flooding for the proposed use;
 - (7) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
 - (8) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions under conditions of flooding;
 - (9) The safety of access to the property in times of flood of ordinary and emergency vehicles;
 - (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and,
 - (11) The costs of providing governmental and public facilities and services during and after flooding.
- (K)** The ZBA may attach additional conditions as are necessary to meet the purpose of this Ordinance.

Section 506 - Telecommunications Antennas and Towers

(A) Purpose. It is the purpose of this section to regulate the placement, design, construction, removal and modification of telecommunication facilities in order to preserve the character and appearance of the town and protect its scenic, historic, cultural, and natural resources, while accommodating the telecommunication needs of residents, travelers and businesses within the Town of Sudbury.

(B) Consistency with Federal Law. These regulations are intended to be consistent with all applicable provisions of the 1996 Telecommunications Act and therefore shall not:

- (1) Prohibit or have the effect of prohibiting the provision of personal wireless communication services;
- (2) Unreasonably discriminate among providers of functionally equivalent services; nor
- (3) Regulate personal wireless services based on the environmental effects of radio frequency emissions to the extent that these facilities comply with the Federal Communications Commission (FCC) regulations concerning such emissions.

(C) Exemptions. The following types of antennas, which are placed on the site of the business or home being served for the owners' or occupants' exclusive use and control shall be exempt from review under the provisions of this section. No other FCC-licensed telecommunications facility shall be considered exempt for any reason, including whether or not an antenna is proposed to share a tower or other support structure with an exempt use. No permit shall be required for:

- (a) Placement of an antenna used to transmit and/or receive communications signals on that property owner's premises if the total area of the antenna does not exceed 8 square feet and if the antenna and any mast support does not extend more than 12 feet above the roof of that portion of the building to which the antenna or mast is attached. Notwithstanding, antennas to be mounted on contributing structures listed in the national or state registers of historic places shall require approval by the ZBA as a conditional use in accordance with the

provisions of Article V and Section 810 of this Ordinance.

(b) A ground mounted broadcast, radio or television antenna, which is intended solely for residential use, and which does not, as mounted, exceed 35 feet in height above the lowest grade at ground level of the mast upon which it is mounted.

(c) Ham radio antennas operated by federally licensed operators, which do not exceed a height of 35 feet above the lowest grade at ground level of the mast or structure upon which they are mounted, whether free-standing or building-mounted. In accordance with Section 809 of this Ordinance, the ZBA may allow increases in height if the applicant can demonstrate that additional height is necessary for the use specified in the applicant's FCC license.

(d) Police, fire, ambulance, and other emergency dispatch telecommunications facilities, which do not exceed 35 feet in height above the lowest grade at ground level or at the base of the structure upon which it is mounted.

(D) Applicability. Except as specifically exempted in Paragraph (C), the provisions of this section shall apply to all FCC-licensed telecommunications facilities whether or not they are proposed to co-locate with exempt facilities (as per FCC regulations, state law or Paragraph(C) of this Ordinance) or be mounted on an existing structure. The construction, installation, modification, or expansion of wireless telecommunications antennas and towers may be allowed in designated zoning districts subject to conditional use approval by the ZBA in accordance with the provisions of Article V and Section 810 of this Ordinance and all applicable provisions of this section.

(E) Application Requirements. In addition to all application requirements specified in Section 810(A) of this Ordinance, applicants for telecommunication facilities shall submit the following:

- (1) A demonstration that telecommunication facility will be in compliance with all FCC regulations, standards, and requirements and a statement that the applicant shall commit to continue to maintain FCC compliance.
- (2) The output frequency, number of channels and power output per channel for each proposed antenna.
- (3) If the facility is to be installed on a structure not owned by the applicant, a copy of the executed contract with the owner.
- (4) If the facility is to be installed on an existing tower, a report prepared by a licensed engineer documenting that the proposed antenna or equipment will not exceed the structural capacity of the tower or be located in a manner that will create interference with already installed antennas or equipment.
- (5) If the project requires Act 250 review, the applicant shall provide copies of the Act 250 application and associated submissions.

(F) General Standards.

(1) **Antennas on Existing Structures.** The mounting of antennas on existing structures (antennas mounted on silos, steeples, utility poles, etc.) is preferred to construction of additional towers.

(2) **Existing Facilities.**

(a) **Alterations or additions.** An alteration or addition to an existing telecommunications facility shall require review and approval under the provisions of this section when any of the following are proposed:

- (i) A change in the number of structures, buildings or facilities on the site;
 - (ii) An increase in the number of antennas mounted on the tower;
 - (iii) Any change that would result in increased visibility of the telecommunications facility as viewed from public vantage points;
 - (iv) A material change in technology used on the site.
 - (b) **Tower Height.** The height of any existing tower, as measured from the lowest grade at ground level at the base of tower to the highest point of the structure, including its mounted antennas, shall not be increased to accommodate additional or replacement antennas unless the proposed increase is necessary to provide adequate service within the Town of Sudbury. Increases in tower height shall not be allowed if the setback requirements of Subparagraphs (E)(1)(b) and (E)(1)(c), above, cannot be met.
 - (c) **Annual Report.** The ZBA shall conditionally approve any alterations or additions to an existing telecommunications facility on compliance with the annual reporting requirements of Subparagraph (7), below.
- (3) **New Towers.** Construction of new telecommunications towers shall be approved only in conformance with the following:
- (a) **Speculative Towers Prohibited.** Applications shall be accepted only from a wireless service provider or FCC licensee, or a landowner with an executed contract to provide land or facilities to one of those entities.
 - (b) **District Setbacks.** No tower, guy wire, foundation, accessory building or other associated structure, except fences, shall be located within required setbacks as specified for the zoning district in which the land is located.
 - (c) **Tower Setbacks.** Towers shall be set back a distance equal to or greater than 110% of the structure's total height, including the tower and the added height of mounted antennas, from:
 - (i) Any public road right-of-way;
 - (ii) Any overhead utility lines; and
 - (iii) All property lines.
 - (d) **Tower Height.** The total height of the tower, as measured from the lowest grade at ground level at the base of tower to the highest point of the structure, including any mounted antennas, shall not be permitted to extend more than 20 feet above the average height of the surrounding vegetation as measured within 500 feet of the tower in undeveloped areas; or shall not be permitted to extend more than 20 feet above the average height of surrounding buildings within 500 feet of the tower in developed areas.
 - (e) **Adequate Coverage.** The ZBA shall not grant conditional use approval for a new tower unless it finds that there is no other existing facility that can provide adequate coverage to the Town of Sudbury. To that end, the applicant shall submit written documentation of all existing telecommunication facilities in which it has a legal or equitable interest, or

which are available for co-location, located within a 20-mile radius of the proposed site. The documentation shall include the following information for each site:

- (i) Exact location in longitude and latitude, as plotted on a USGS quad sheet or similar base map;
- (ii) Ground elevation;
- (iii) Height of tower or structure;
- (iv) Types of antennas;
- (v) Antenna gains;
- (vi) Height of antennas on the tower or structure;
- (vii) Output frequencies;
- (viii) Number of channels;
- (ix) Power input and maximum power output per channel;
- (x) Potential adjustments that could be made to provide adequate coverage in Sudbury including, but not limited to, changes in antenna height, orientation, type, gain or power output;
- (xi) Feasibility of using repeaters to provide adequate coverage in Sudbury from the site; and
- (xii) Radial or tiled coverage plots from each of the facility sites as they exist and as they may be modified.

(f) **Co-Location Required.** The ZBA shall not grant conditional use approval for a new tower unless it finds that there is no possibility of co-locating the service on an existing tower or structure within a 20-mile radius of the proposed location. The ZBA may require the applicant to allow future co-location on a proposed tower as a condition of approval.

(g) **Visibility.** The ZBA may require the applicant to fly a test balloon and document the visibility of the proposed tower from specified locations in order to assess the degree to which a proposed tower will be visible from public vantage points and/or nearby properties. The placement of towers on prominent ridgelines shall be avoided to the greatest extent feasible.

(h) **Screening and Clearing.** The ZBA may require screening as deemed necessary to reduce the visibility of the tower or associated accessory structures and utilities from public vantage points or abutting properties. On forested sites, the amount of tree clearing shall be kept to the minimum necessary to accommodate the tower and any associated accessory structures, roads or utilities. Access roads shall be designed to follow natural contours and reduce their visibility from public vantage points to the greatest extent feasible.

(i) **Undergrounding of Utilities.** All utility systems shall be located underground throughout the project site. The ZBA may waive this provision, as per Section 809 of this Ordinance, if undergrounding is deemed unreasonable and prohibitively expensive. If not underground, utility corridors shall be designed to follow natural contours and reduce their visibility from public vantage points to the greatest extent feasible.

(j) **Design.** Towers, antennas and any necessary support structures shall be designed to blend into the surrounding environment to the greatest

extent feasible through the use of color, material, finish and structural design. Use of reflective materials shall be avoided. Towers shall be unstayed monopoles unless the ZBA deems such a design inappropriate or infeasible due to specific site conditions. Use of a matte gray finish is preferred when a tower will be silhouetted against the sky. No signs or lettering shall be placed on a tower.

(k) **Lighting.** Towers of a height that would require warning lights shall be prohibited, unless the ZBA finds it the only viable alternative to meet reasonable facility requirements of a communications service provider. The only tower lighting that may be permitted is that required by FAA regulations. All site lighting shall be shielded to minimize or prevent glare onto adjoining properties or into the night sky to the greatest extent feasible.

(l) **Security.** Access to the tower shall be restricted through a suitable fence. Warning signs shall be posted and a gate shall be installed at the entrance to any access road.

(m) **Compliance with FCC Requirements.** The ZBA shall condition approval of all telecommunication facilities on the permittee maintaining compliance with all FCC regulations, standards and requirements regarding both radio frequency interference (RFI) and radio frequency radiation (RFR).

(4) **Interference Prohibited.** No telecommunications facility shall be located or operated in such a way as to interfere with public safety telecommunications.

(5) **Pre-Operation Report.** The permittee shall submit a report to the ZA, prepared by an independent radio frequency engineer jointly selected by the Town and permittee, documenting the background levels of non-ionizing radio frequency radiation around the site before any new facilities or antennas are placed into operation. The ZA shall not issue a Certificate of Occupancy until the report is received.

(6) **Post-Operation Report.** The permittee shall submit a report to the ZA, prepared by an independent radio frequency engineer jointly selected by the Town and permittee, documenting the background levels of non-ionizing radio frequency radiation around the site within 30 days of the facility or antenna(s) being placed into operation.

(7) **Annual Report.** The permittee shall submit an annual report to the ZA, prepared by an independent radio frequency engineer jointly selected by the Town and permittee, no later than the anniversary date of the issuance of the original permit or the last renewal of the permit, documenting the background levels of non-ionizing radio frequency radiation around the site, certifying that the facility complies with all FCC standards and that the facility, including individual antennas and equipment, continues to operate. The report shall also include:

(a) A list of the most recent Federal Communications Board RFR readings at the site, their distances from the telecommunications facility, dates of the readings and the name of the person or company who took the readings.

(b) A list of all antennas and equipment in use during the previous calendar year, including identification of any companies/entities renting space and/or equipment.

(8) **Permit Renewal.** Upon conditional use approval, the ZA shall issue a permit for the facility, which shall expire two (2) years from the date of issuance. Upon receipt of the facility's annual report, described in Subsection (F)(7), above, and finding the facility to be in compliance with all conditions of approval, the ZA shall extend the facility's permit for one (1) additional year.

(G) Abandonment and Removal of Unused Antennas or Equipment.

(1) **Abandonment.** A telecommunications facility, including individual antennas, arrays or other equipment, shall be considered abandoned if it is out-of-service or otherwise unused for a continuous 12-month period. A permit issued for a telecommunications facility under this Ordinance shall be revoked if the facility is out-of-service or otherwise unused for a continuous 12-month period, or if the required annual report is not received within 15 days of its due date.

(2) **Removal.** Abandoned or unused towers, antennas, or other equipment shall be removed as follows:

- (a) The permittee shall remove abandoned or unused towers, antennas or other equipment within 180 days of notification by the ZA.
- (b) Once removed, no portion of a telecommunications facility may be replaced without approval and permitting under all applicable provisions of this Ordinance.
- (c) If all antennas and/or equipment on a site has ceased to operate, the entire telecommunications facility shall be removed.
- (d) All costs of removal shall be borne by the permittee.

(H) de Minimis Review. Upon request of the applicant, the ZA may review an application for a telecommunications facility and upon determining that the application will impose no or *de minimis* impact upon any criteria established in this Ordinance shall approve the application. An application that includes any of the following shall not be determined to have a *de minimis* impact:

- (1) New road, accessory structure or tower construction;
- (2) Increase in the height of a structure;
- (3) Increase in the visibility of telecommunications facilities as viewed from public vantage points; or
- (4) Increase in the number of antennas mounted on an existing tower.

Section 507 - Renewable Energy Generating Facilities

In general, the development and installation of both commercial and residential renewable energy facilities are regulated by the State's Public Service Department through the issuance of permits, known as Certificates of Public Good (CPGs), by the Department's Public Utility Commission (PUC). In such cases, these facilities are exempted from local municipal permitting by the provisions of 30 V.S.A. 5 §248(a)(h). Often, however, small-scale residential developments are undertaken without PUC review and approval or CPGs, and these developments are subject to regulation under

local municipal zoning bylaws. Such developments may include, but are not necessarily limited to:

- Electric power generation facilities, such as wind turbines or solar photovoltaic panel arrays, which may or may not include involvement in a net-metering arrangement with a local electric utility;
- Hot-water heating facilities, such as passive solar water-heating arrays, or exterior hot-water boiler systems, which may be fueled by renewable biomass supplies (firewood, wood chips, wood pellets, etc.) or by fossil fuels (pea coal, fuel oil, natural gas or propane), with biomass fuel being the preferred choice;
- Hydrological power generation facilities, which may or may not include involvement in a net-metering arrangement with a local electric utility.

(A) Wind Energy Generating Facilities. Small-scale wind turbines may be allowed in designated zoning districts as residential accessory uses subject to conditional use approval by the ZBA in accordance with the provisions of Article 5 and Section 705 of this Ordinance and all of the following:

- (1) The wind turbine facility may consist of a single tower not to exceed a total height of 100 feet, including the height of the tower, measured from the average grade at the tower's base to the top of the generator nacelle, and the radial length of the turbine's blades.
- (2) The requested height of the tower shall not exceed what is reasonably necessary to provide for efficient operation of the wind turbine system.
- (3) The ZBA may waive clearing limitations, at its discretion, for the siting of wind turbine towers.
- (4) The tower shall be set back a distance equal to or greater than the total height, including the tower and the radial length of the blades, from:
 - {a} any public road right-of-way, unless written permission is granted by the governmental entity with jurisdiction over the road;
 - (b) any overhead utility lines; and
 - (c) all property lines, unless written permission is granted by the adjoining landowner(s).
- (5) The applicant shall take all reasonable measures to minimize any undue adverse visual or noise impact of the wind turbine system.

(B) Solar Energy Generating Facilities. Small-scale solar photovoltaic energy generating systems or passive solar water heating facilities may be allowed in designated zoning districts as residential accessory uses subject to conditional use approval by the ZBA in accordance with the provisions of Article 5 and Section 810 of this Ordinance and all of the following:

- (1) The ZBA may waive maximum height limit requirements at its discretion, to allow placement of roof-mounted solar panels that extend up to 10 feet above the roof's surface, which are otherwise exempt from municipal permitting.
- (2) The ZBA may reduce minimum side-yard and rear-yard setback distances for detached ground-mounted solar panels, which will be treated as residential accessory structures, with the provision that such panels shall be

located behind the front line of the principal building on the lot. The ZBA may waive this requirement, at its discretion, if it finds that cost-effective installation and/or efficient operation requires siting panels in front of the principal building.

(3) The requested height and size of the array shall not exceed what is reasonably necessary to provide efficient operation of the system.

(4) The ZBA may waive clearing limitations, at its discretion, for the siting of such solar energy systems.

(5) The applicant shall take all reasonable measures to minimize any undue adverse visual or noise impact of the system.

(C) Biomass Energy Generating Facilities. Small-scale water heating facilities may be allowed in designated zoning districts as residential accessory uses subject to conditional use approval by the ZBA in accordance with the provisions of Article 5 and Section 810 of this Ordinance and all of the following:

(1) The structure which houses the furnace/boiler apparatus will be treated as a residential accessory structure, and will comply the requirements of Section 305(A) Table I of this Ordinance.

(2) In addition to the minimum front-yard, side-yard and rear-yard setback distance requirements, and in the interest of fire safety, the furnace/boiler housing structure will be separated from the principal dwelling on the property by a distance of not less than twenty-five (25) feet.

(3) The applicant shall take all reasonable measures to minimize any undue adverse visual, noise, noxious fumes or odor impacts of the system.

(D) Hydrological Energy Generating Facilities. Small-scale hydrological energy generating systems may be allowed in designated zoning districts as residential accessory uses subject to conditional use approval by the ZBA in accordance with the provisions of Article 5 and Section 810 of this Ordinance and all of the following:

(1) The installation of water turbines and/or dams containing water turbines for the generation of electric power extracted from stream flow shall be carried out in strict accordance with the State's provisions regulating water quality and stream alteration, as set out in 10 V.S.A. 41 and 10 V.S.A. 111 §4607.

(2) Structures which house the supporting/conversion equipment for the immersed water turbines will be treated as residential accessory structures, and will comply the requirements of Section 305(A) Table I of this Ordinance.

(3) The applicant shall take all reasonable measures to minimize any undue adverse visual or noise impacts of the system.

(E) Expiration and Abandonment. A permit issued for an energy generating facility shall expire if the system is out of service or otherwise unused for a continuous 12-calendar-month period. All structures associated with the energy facility located outside the residence shall be removed within three (3) months of the permit's expiration.

ARTICLE VI: NON-CONFORMING USES & DIMENSIONAL NON-CONFORMITIES

Section 601 - Construction Approved Prior to Adoption or Amendment of Ordinance

Nothing contained in this Ordinance shall require any change in a use or dimensional non-conformity where such use or structure conformed to all applicable laws, ordinances, and regulations prior to the enactment of this Ordinance.

The Zoning Administrator shall issue a permit for any action taken involving a nonconformity that is permitted in this Ordinance. See Section 805 regarding permits.

Section 602 - Change of a Non-conforming Use

A non-conforming use may be changed to another non-conforming use only with the approval of the ZBA and then only to a use which in the judgment of the Board is of a lesser, or not more, non-conforming nature and providing that no structural changes are made in the building. Whenever a non-conforming use has been changed to a conforming use, it shall not be changed back to a non-conforming use.

Section 603 - Extension of a Non-conforming Use

A non-conforming use may be extended throughout the building, provided no substantial structural alterations or changes are made therein, except those required by law or ordinance or as may be required for safety or necessary to secure or insure the continued advantageous use of the building during its lifetime.

Section 604 - Enlargement of a Non-conforming Use

A non-conforming use may be enlarged on the same lot provided that:

- A. All provisions of this Ordinance, except type of use, are complied with;
- B. The ZBA determines that the character of the neighborhood will not be changed substantially by this enlargement;
- C. Only one such extension is made; and
- D. The total enlargement does not exceed fifty (50%) percent of the area of the non-conforming use in existence at the time of the adoption of this Ordinance.

Section 605 - Restoration of a Non-conforming Use

Any non-conforming use which has been destroyed or damaged may be restored within a one (1) year period, to the same non-conforming use as existed before such damage.

Section 606 - Discontinuance of Non-conforming Use

Any non-conforming use of land or building which has ceased by discontinuance, or abandonment for a period of one (1) year or more shall thereafter conform to the provisions of this Ordinance. Intent to resume a non-conforming use shall not confer the right to do so unless an actual application for resumption occurs within the specified time period.

Section 607 - Maintenance of a Dimensional Non-conformity

A dimensional non-conformity may be normally maintained and repaired provided that such action does not increase the degree of non-conformity.

Section 608 - Expansion of a Dimensional Non-conformity

The ZA may approve the relocation, replacement or expansion of a dimensional non-conformity provided that the structure does not increase its dimensional non-conformance.

Section 609 - Restoration of a Dimensional Non-conformity

Any dimensional non-conformity which has been destroyed or damaged may be restored within a two (2) year period, to the same dimensional non-conformity as existed before such damage.

Section 610 - Development on a Lot or Parcel with a Dimensional Non-conformity

An existing non-conforming lot may be normally developed upon provided that all provisions of this Ordinance, except those which create the dimensional non-conformity, are complied with.

Section 611 - Alteration of a Lot or Parcel with a Dimensional Non-conformity

The boundaries of a lot or parcel with a dimensional nonconformity may be altered only in a manner that decreases, or does not increase, the degree of nonconformity.

Section 612 – Non-conformities in a Flood Hazard Area

An applicant may request a hearing by the Zoning Board of Adjustment under 24 VSA 117 §§4412 and 4424 to consider the repair, relocation, replacement, or enlargement of a non-conforming structure, or address non-conforming uses within a regulated flood or other hazard area. The request will be handled through the same process identified for conditional use approval. The ZBA may allow and condition such actions subject to compliance with applicable federal and state laws and regulations, and provided that the following criteria are met:

- (A) The ZBA finds that the repair, relocation, or enlargement of the non-conforming structure will not increase flood levels in the regulatory floodway, increase the risk of other hazard in the area, or threaten the health, safety, and welfare of the public or other property owners;
- (B) The permit is in compliance with all the Development Standards in this Ordinance; or, non-conforming structures that are destroyed, or substantially damaged, may be reconstructed in circumstances when the structure cannot be relocated to a less hazardous location on the parcel, when the lowest floor of the reconstructed structure is rebuilt to one foot or more above the base flood elevation, and the structure is otherwise in compliance with all requirements of the National Flood Insurance Program;
- (C) Non-conforming structures or uses shall be considered abandoned where such structures or uses are discontinued for more than 12 months. 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 of this Ordinance; and
- (D) Nothing in this section shall be construed to restrict the authority of the Town to abate public nuisances or to abate or remove public health risks or hazards.

ARTICLE VIIa. DEVELOPMENT REVIEW STANDARDS

Section 701 - Applicability

- (A) The PC/ZBA shall use these standards when reviewing applications for PUDs, subdivisions, certain conditional use permits at the discretion of the PC/ZBA, and amendments to any prior PC/ZBA approvals. If these standards conflict with any other applicable provisions of this Ordinance, the more stringent shall apply.
- (B) The PC/ZBA must find that the proposed development will not result in an undue adverse impact on the applicable standards of this article.
- (C) The PC/ZBA may impose conditions as appropriate to ensure conformance with these standards and all applicable provisions of this Ordinance.
- (D) Whenever a proposal is submitted for development on a minor portion of a parcel, the PC may ask the applicant to provide a general indication of the intended use of the remaining portion of the land. Such indication shall include at minimum a written description of the proposed type and intensity of use, access, and approximate time frame for the development of the remainder of the parcel. Such an indication shall not be used to restrict the future development possibilities of the remaining portion of the land.
- (E) The ZA shall not issue a zoning permit for any use or structure that requires conditional use, PUD or subdivision approval until the PC/ZBA grants such approval in accordance with the following standards and all other applicable provisions of this Ordinance.

Section 702 - Character of the Area

- (A) **General.** The applicant shall demonstrate that the location, scale, type, density and intensity of use associated with the proposed development will not have an undue adverse

impact on the character of the area. The character of the area shall be determined by the PC/ZBA based on the Sudbury Town Plan, applicable zoning district purposes and standards, and submitted materials and testimony.

(B) Criteria. When determining the character of the area, the PC/ZBA may consider some or all of the following as applicable:

- (1) Existing and planned pattern of development, uses and types of buildings in the area.
- (2) Intensity, uniformity or mix of uses and buildings.
- (3) Mass, scale and spacing of buildings.
- (4) Noise and traffic.
- (5) Privacy, security, identity, sense of community and cohesion.
- (6) Scenic resources, aesthetics and open space.
- (7) Historic structures and features.
- (8) Goals, objectives and policies of the Sudbury Town Plan.
- (9) Zoning district purposes and standards.

(C) One or more of the review criteria found in 10 V.S.A. 151 §6086 may be adopted as standards for use in conditional use review. The existence of one conditional use in an area shall not be interpreted as justification for another similar conditional use to be located there.

Section 703 - Community Services or Infrastructure

(A) General. The applicant shall demonstrate that the demand for community services and facilities resulting from the proposed development shall not exceed the available or planned capacity of such services and facilities. Available capacity may be determined in part through consultation with other municipal and/or state officials having jurisdiction over affected services and facilities. Conditions may be imposed as appropriate to ensure that the demand for community facilities or services does not exceed existing or anticipated available capacity.

(B) Water and Sewer. The development shall have sufficient water and sewer capacity available for its needs and shall not result in an unreasonable burden on the Town's current or planned water or sewer systems. If public water or sewer is not involved, the property shall have adequate capability for on-site water supply and wastewater disposal in accordance with applicable State regulations. The PC/ZBA may solicit input of appropriate municipal officials/staff and/or require engineering reports by the applicant.

(C) Fire Protection Facilities. The development shall have adequate water storage or distribution facilities for fire protection. The PC/ZBA may require the applicant to install infrastructure to suppress or fight fire such as sprinkler systems, fire hydrants, dry hydrants, cisterns or ponds. The applicant may be asked to submit documentation from the Whiting Fire Department as to the adequacy of emergency access and fire protection facilities. The PC/ZBA may also solicit input from the Whiting Fire Department.

(D) Municipal Impact. The development shall not create an undue burden on municipal facilities or create an unreasonable demand for public services, nor shall it endanger public or quasi-public investments or materially interfere with the function, efficiency, safety or public's use and enjoyment of governmental, utility or nonprofit community facilities, services or lands. The PC/ZBA may consider whether the anticipated tax return

from the proposed development is equal to or exceeds the cost of anticipated municipal services and facilities directly attributable to the proposed development, and whether the proposed development will place an unreasonable burden on the ability of local governmental units to provide municipal, governmental, or educational services and facilities. A fiscal impact analysis and/or the phasing of development in accordance with any duly adopted capital budget and program may be required as appropriate. The PC/ZBA may solicit input from appropriate officials/staff and other qualified professionals.

Section 704 - Design

The applicant shall demonstrate that the design and location of structures will be compatible with their proposed setting and context, as determined in relation to zoning district objectives and requirements, existing site conditions and features, and adjoining structures and uses. Conditions may be imposed with regard to siting, density, setbacks, height, massing, materials, reflectivity and/or orientation, to ensure compatibility. A design or visual impact analysis may be required to identify potential adverse impacts and appropriate mitigation measures.

Section 705 - Energy

(A) General. The applicant shall demonstrate that the proposed development will not interfere with the sustainable use of renewable energy resources, including access to, direct use or future availability of such resources. Energy efficient site design and layout is encouraged. At a minimum, the PC/ZBA shall consider:

- (1) Whether the project will unreasonably harm any neighbor's access to solar energy or other alternative energy utilization methods.
- (2) Whether the project will appropriately incorporate the principles of energy conservation and the best available technology that is practicable for efficient use and recovery of energy.
- (3) Whether the project will be able to be served by existing and permitted utility facilities, without excessive demands or adverse indirect impacts.

(B) Energy Conservation. In order to promote energy conservation, to the extent that is economically and environmentally feasible:

- (1) Buildings should be oriented to maximize solar gain, solar energy generation and day-lighting opportunities. Buildings that are designed with uninterrupted south facing roof expanses and orientations within 15 degrees of true south are encouraged.
- (2) Landscaping should be effectively incorporated to provide wind barriers and to reduce heat loss or gain as appropriate;
- (3) The siting of lots and buildings should minimize the length of road and utility corridors required; and
- (4) Supporting infrastructure for alternative modes of transportation (i.e., interconnected bicycle and pedestrian connections, sidewalks, transit stops) should be incorporated into development plans as appropriate.

Section 706 - Historic and Cultural Resources

The applicant shall demonstrate that the proposed development will not have any undue adverse impact on historic, archaeological or cultural resources. To that end:

- (1) Development shall be designed to maintain the historic context of the site, as defined by any historic structures located on the property and in the immediate vicinity of the site, and to minimize the impact of new development on the historic and architectural integrity of historic resources.
- (2) The location of lot lines and development envelopes should be configured to reflect the settlement pattern of nearby historic structures, and to minimize the contrast between contemporary and historic development.
- (3) Historic features, including stone walls and cellar holes, should be preserved and integrated into project design to the greatest extent feasible.
- (4) Prior to development on sites that have been identified as being archaeologically sensitive in the Sudbury Town Plan or through site investigation, the PC/ZBA may require a site assessment to identify the presence and relative value of archaeological resources on the site and to document the archaeological resource and/or recommend strategies for its protection.

Section 707 - Landscaping and Screening

The applicant shall demonstrate that the proposed development meets the general intent and specific requirements of Article IV of this Ordinance. Landscaping and screening may be required to:

- (1) Provide an undisturbed, vegetated buffer between developed and undeveloped portions of a subdivision to protect water quality and/or other natural features;
- (2) Provide for stormwater infiltration and management;
- (3) Provide screening of development to increase privacy, reduce noise and glare, or to otherwise soften and/or lessen its visual impacts;
- (4) Establish and maintain street trees along public or private roads to create a canopy effect and/or maintain a pedestrian scale where the PC/ZBA deems appropriate;
- (5) Preserve existing specimen trees, tree lines, hedgerows, and wooded areas of particular natural or aesthetic value to the site, or critical wildlife habitat; and/or
- (6) Establish buffers or barriers between incompatible land uses.

Section 708 - Local Laws and Town Plan

The applicant shall demonstrate that the proposed development is in conformance with all applicable requirements of this Ordinance (including, but not limited to, the general standards of Article IV), any capital budget and program, Official Map, other local laws or ordinances, Town permit and/or approval conditions (i.e., subdivision or highway access) and is consistent with applicable goals, objectives and policies of the Sudbury Town Plan.

Section 709 - Natural Resources

The applicant shall demonstrate that the land to be developed will be able to support the intended use without undue adverse impact on important natural resources or fragile features located on the parcel, including wetlands, steep slopes, rivers and streams, critical wildlife habitat and habitat diversity, groundwater source protection areas, fluvial erosion hazard areas and/or floodplains identified in the Sudbury Town Plan, by state or federal government agencies, or through field investigation. An environmental assessment may be required to determine potential adverse impacts and associated mitigation measures. The PC/ZBA may require measures to ensure the protection of natural resources and fragile features including but not limited to:

- (1) Establishment of buffer areas;
- (2) Permanent protection through conservation easements, an open space agreement or other deed restrictions;
- (3) Designation of development envelopes to ensure that activities incidental to the development, including clearing and yard area, do not adversely impact identified resources; and/or
- (4) Preparation and implementation of management plans for protected resources and associated buffer areas.

Section 710 - Recreation

The applicant shall demonstrate that the demand for recreational facilities resulting from the proposed development will be met. The PC/ZBA may require the establishment of parks, playgrounds, trails, pathways or other recreation facilities to meet demand from the proposed development. All such land shall be of a reasonable character for its intended use. Applicants are encouraged to maintain any existing public recreational access on property being developed to the greatest extent feasible.

Section 711 - Traffic and Circulation

(A) General. The applicant shall demonstrate that the potential impact of projected traffic resulting from the proposed development will have no undue adverse impact on the condition, capacity, safety and function of roads, parking and associated infrastructure (i.e., bridges, culverts) potentially affected by the proposed development. The PC/ZBA shall consider and seek input as appropriate related to:

- (1) Public safety;
- (2) Traffic plans or studies;
- (3) Pedestrian and bicycle needs;
- (4) Public transit needs; and
- (5) Alternatives that reduce driving and traffic.

(B) Traffic Impact Study. A traffic impact study may be required, particularly for uses that propose direct access onto Vermont Route 30 or Vermont Route 73, or that generate in excess of 50 trips per day. A traffic impact study shall include the following, unless specifically waived by the PC/ZBA:

- (1) Identification of all roads and intersections potentially affected by the project.
 - (2) Statement of existing and projected traffic conditions for a minimum of a 5-year period.
 - (3) Comparison of operating levels of service for affected roads and intersections with and without the proposed development, as of its opening date, and projected for a 5-year period.
 - (4) Identification of any adverse traffic, road or intersection impacts, and a description of the improvements needed to provide an acceptable level of service.
- (C) Roadway Modifications.** The PC/ZBA may require off-site road or intersection modifications as appropriate for the area (i.e., the installation of frontage roads, turning lanes, or signals as warranted) as a condition of approval.
- (D) Pedestrian and Bicycle Access.** The PC/ZBA may require provision for pedestrian access within the site, and access through the site to adjacent properties and along roads. Such access may take the form of sidewalks, walking and/or bicycle paths, or other facilities depending upon the property's location, site conditions and proximity to other facilities. Bicycle racks may be required for commercial and public uses intended for general public access. In addition, adequate access from the parking area and sidewalks to the building(s) that are open to the public shall be provided for people with disabilities in accordance with applicable state and federal laws.

ARTICLE VIIb. SUBDIVISION & PUD REVIEW STANDARDS

Section 712 - Subdivision

(A) Applicability. The PC shall evaluate any subdivision of land in accordance with the standards set forth in this article and all other applicable provisions of this Ordinance.

(B) General Standards.

- (1) **Character of the Land.** All land to be subdivided shall be, in the judgment of the PC, of such a character that it can be used for intended purpose(s), as stated in the application, without danger to public health or safety, and without undue adverse impacts to the environment, neighboring properties, or the character of the area as described in the purpose of the zoning district in which it is located and the Sudbury Town Plan.
- (2) **Compatibility with Existing Settlement Patterns.** Subdivisions shall be designed and laid out to achieve the purpose and desired settlement pattern of the district in which they are located. To the extent feasible, new subdivisions of land shall:
 - (a) Maintain and extend desired settlement patterns, including lot area and configuration, road layout, and building locations, for the neighborhood or district in which they are located;
 - (b) Maintain contiguous tracts of open land with adjoining parcels; and
 - (c) Connect to, and extend where appropriate, existing road, path, utility and open space corridors.

(3) **Density and Lot Layout.** Density, lot size and layout shall conform to zoning district standards, and general standards pertaining to lot frontage, lot and yard requirements, unless modified or waived by the PC under the PUD provisions below. In addition:

- (a) Lower densities of development may be required by the PC based on site limitations.
- (b) Lot layout shall be appropriate for the intended use and reflect the purpose of the district in which the lots are located.
- (c) Lots with frontage on more than one road shall have sufficient width to permit a front setback from each road.
- (d) Side lot lines shall be generally at right angles to straight roads, or radial to curved roads.
- (e) Lots with irregular shapes (i.e., curves, jogs, dog-legs) shall not be created unless warranted by conditions of topography, the location of natural features, or existing roads.

(4) **Establishment of Development Envelopes.** In the case of planned unit developments (PUDs, in which lots which are non-conforming with respect to the minimum road frontage and/or minimum lot size requirements of the district in which the PUD is located may be created), the PC may require that all newly created lots shall have a designated development envelope. Development envelopes shall be designated to identify and limit the location of principal and accessory structures, parking areas, and associated site development (excluding road and utility rights-of-way or easements) on one or more portions of a lot. The size and shape of development envelopes shall at minimum be determined by district setback requirements, unless otherwise specified in this Ordinance or established by the PC.

(C) **Protection of Natural Resources.** Subdivision boundaries, lot layouts, the location of roads, driveways and infrastructure, and development envelopes shall be located and configured to avoid undue adverse impacts to natural and scenic resource features as identified in the Sudbury Town Plan and in field evaluations by natural resource professionals.

(1) **Design Process.** All subdivisions shall be prepared with a process that first identifies natural and scenic resources and then lays out the subdivision to preserve the identified resources to the greatest extent feasible.

(2) **Field Evaluations.** The PC may require an applicant to conduct independent evaluations and mapping where the PC finds there are likely important natural resource features, habitat or scenic vistas that would be affected by a project and need to be delineated and evaluated to properly include these in the design of a project.

(3) **Development Envelopes.** Development envelopes shall be located and configured to avoid or minimize impact on natural resource features and scenic vistas, ridgelines and knolls that are visible from public vantage points.

(4) **Clearing Limits.** The PC may establish clearing limits to minimize forest fragmentation, maintain contiguous forest cover, preserve critical wildlife habitat and travel corridors, and limit the visibility of new development.

- (5) **Resource Fragmentation.** Lot lines, infrastructure and road, driveway and utility corridors shall be located to avoid and minimize the parcelization, fragmentation, or destruction of resource features and scenic character. The design and layout of the project shall complement adjacent preserved lands, conservation easements, and private deed restricted areas.
- (6) **Existing Site Features.** Where sites include features such as existing roads, tree lines, mature specimen trees, stone walls, fence lines, trails or paths, streams and wildlife travel corridors, the design shall work around, conserve or utilize those as appropriate to minimize new impacts and preserve desirable elements.
- (7) **Infrastructure.** Roads, driveways and utility corridors shall be laid out to minimize impact and shall be shared where practical.
- (8) **Multiple Resources.** Recognizing that the subdivision process will often require consideration of multiple resources and site constraints, the PC shall work with applicants to balance development and resource protection on a site-specific basis.
- (D) Disclosure of Subsequent Development Plans.** Whenever a proposal is submitted for development on a minor portion of a parcel, the PC may ask the applicant to provide a general indication of the intended use of the remaining portion of the land. Such indication shall include at minimum a written description of the proposed type and intensity of use, access, and approximate time frame for the development of the remainder of the parcel. Such an indication shall not be used to restrict the future development possibilities of the remaining portion of the land.
- (E) Master Plan for Phased Subdivisions.** For phased subdivisions, the PC may require submission of a conceptual master plan for the entire parcel that at a minimum identifies:
- (1) Conservation areas and other common land and open space;
 - (2) Proposed development areas;
 - (3) The general location of proposed infrastructure, including road, utility and green space corridors; and
 - (4) An estimate of the type, density, and timing of future development.
- (F) Boundary Line Adjustment (Administrative Review).** The zoning administrator (ZA) may approve boundary line adjustments that meet all the criteria below. All other changes in lot lines that do not meet these standards will be reviewed as subdivisions by the Planning Commission under the standards of Article VII of this Ordinance.
- (1) If the proposed lot-line adjustment is approved, neither lot (nor any structure or use on it) shall become nonconforming based on the standards of the zoning district(s) in which it is located. Notwithstanding, the ZA may act on a boundary adjustment involving an existing nonconformity if the proposed adjustment will result in the elimination or reduction of the nonconformity.
 - (2) The boundary adjustment shall not make either lot more developable based on the standards of the zoning district(s) in which it is located (i.e., by increasing the acreage or road frontage to allow for further subdivision of either of the lots, or the potential for a greater number of lots).
- Applicants shall submit a sketch plan for review by the ZA. Applicants shall also submit a copy of the state Wastewater Disposal System & Potable Water Supply permits for each

reconfigured lot, or a written determination from the Agency of Natural Resources exempting the boundary adjustment from the requirements of the State regulations. A survey, stamped by a surveyor registered to practice in Vermont, shall be completed locating the new boundary and eliminating the former boundary. If the combined area of the two lots is 5 acres or greater, the applicant shall not be required to survey them in their entirety and may survey only those portions necessary to establish the new boundary. Within 180 days of approval by the ZA, applicants shall file a final plat for recording in the town land records as required by Section 811(F) of this Ordinance. Failure to file within 180 days will void approval of the plat. Applicants shall also file new deed descriptions that eliminate any reference to the old boundary and correctly describe the new configuration, or attach revised descriptions that shall be incorporated into the deeds at a later time.

Section 713 - Planned Unit Developments (PUDs)

(A) Purpose. These planned unit development (PUD) provisions are intended to accommodate new development in a manner that maintains the town's traditional settlement patterns, is compatible with the character of the area as described in the Sudbury Town Plan and the purpose of the zoning district in which the project is located, and which offers owners the flexibility to creatively develop their property. The purpose of these provisions is to help implement the goals and policies of the Sudbury Town Plan, as most recently amended:

- (1) Explore new and innovative measures to achieve the traditional settlement pattern of a compact village center surrounded by rural countryside.
- (2) Encourage master planning and use of the town's PUD provisions to cluster development for large-scale projects and major subdivisions.
- (3) Provide incentives to promote use of the PUD provisions to cluster development while preserving large tracts of productive farm or forest land.
- (4) Require the use of cluster development techniques to maintain a base of open space, farmland and forestland in the town.

(B) Applicability. The PUD provisions may be applied to any land development in the Town of Sudbury at the request of the applicant.

(C) Open Space, Working Land or Common Land. PUDs shall be designed to preserve open space areas, working land, and/or common land for parks, recreation, greenways, scenic resource protection, historic resource protection, and/or preservation of agricultural or forest lands, critical wildlife habitat and travel corridors and environmental quality.

- (1) **Minimum Open Space Requirements.** PUDs in the Rural Residential district shall set aside a minimum of 50% of the parcel as open space, as defined in Section 713 (E)(1), below.
- (2) **Preservation of Open Space.** The location, size and shape of lands set aside to be preserved for open space shall be approved by the PC, in accordance with the following:
 - (a) Designated open space may include the portion of a single lot outside the development envelope that is characterized by important

natural resources and/or may encompass the contiguous boundaries of important natural resources located on multiple lots.

(b) The location, shape, size and character of the open space shall be suitable for its context and intended use. A single, contiguous area of open space is preferred unless the PC agrees that multiple, non-contiguous open space areas would better protect the specific resources or features of a particular property and/or allow for a better overall development pattern on the site.

(c) Open space land shall be located to conform with and extend existing areas sharing similar characteristics or natural features and resources on adjacent parcels.

(d) Provisions shall be made to enable open space designated for agriculture and forestry to be used for these purposes. Management plans may be required by the PC as appropriate to ensure the long-term protection and management of working lands. Areas preserved for agricultural and forestry use should be of a size suitable for their intended use and that retains their eligibility for available tax abatement programs.

(e) Utility and road rights-of-way or easements, access and parking areas shall not be counted as open space areas, except where the applicant can prove, to the satisfaction of the PC, that those uses in no way disrupt or detract from the values for which the open space is to be protected.

Wastewater treatment and stormwater management practices or facilities that require, incorporate or establish open space areas may be counted as open space.

(3) **Common Land and Infrastructure.** Land held in common for the preservation and maintenance of open space or natural resource areas shall be established separate from the maintenance and protection of shared infrastructure such as community wastewater systems, recreation facilities, roads and utility rights-of-way.

(4) **Legal Requirements.** The PC may require that protected open space be dedicated, either in fee simple or through a conservation easement or open space agreement approved by the PC, to the town, a homeowners' association comprising all of the present and future owners of property within the development, or a non-profit land conservation organization. At a minimum, designated open space shall be indicated with appropriate notation on the final plat. Land held in common shall be subject to deed restrictions stipulating the permitted and prohibited use of such land, and establishing the person or entity responsible for maintenance and long-term stewardship. All costs associated with administering and maintaining open space and/or common land shall be the responsibility of the applicant and subsequent landowners.

(D) General Standards. In addition to all applicable subdivision standards, PUDs shall meet the following:

(1) The PUD shall reflect an effective and unified treatment of the development possibilities of the project site. PUDs can be designed to replicate the pattern of a traditional farmstead or a small hamlet at a

crossroads with buildings of various scales and styles clustered together and surrounded by open countryside.

(2) Newly subdivided lots created as part of a PUD should not exceed 2 acres in area unless the PC agrees larger lots are necessary to accommodate:

- (a) On-site water or wastewater treatment systems;
- (b) A proposed use other than single-family dwellings; or
- (c) Site specific conditions or limitations.

(E) PUD Standards. PUDs shall be designed to blend new development into the agricultural or forest landscape, and to maintain the Town's rural character, both visually and as a functional working landscape. To this end:

(1) PUDs shall set aside a minimum of 50% of the project area as undevelopable land in accordance with the following principles:

- (a) If the parcel to be developed is currently productive agricultural land, the acreage set aside should be of a quality, size and configuration that makes continued agricultural use possible unless the PC agrees that doing so would result in undue adverse impacts to any important natural resources identified on the parcel.
- (b) If the parcel to be developed is largely forested, forest fragmentation and tree removal should be kept to a minimum.

(2) PUDs located on open agricultural land should be designed to do one or more of the following:

- (a) Preserve working land by locating house sites along the edges of fields, pastures and woodlots. Roads, driveways and property lines are encouraged to follow existing site features such as walls, fence lines and hedgerows. Homes should be located to provide an adequate buffer between the residential and agricultural uses.
- (b) Replicate a traditional Vermont farmstead, characterized by a variety of building scales reminiscent of the appearance of a principal dwelling and a mix of barns and agricultural accessory buildings located within a compact area surrounded by open farmland. Use of multi-unit structures and/or accessory units is encouraged.
- (c) Replicate a traditional Vermont hamlet or crossroads, characterized by a concentration of primarily residential structures, located at a road intersection, bounded by farm or forest land.

Developments are encouraged to incorporate a village green or park into their design. Buildings should be oriented towards roads, one another and/or the green or park.

(3) PUDs to be located in forested areas should be designed to maintain the appearance of an unbroken forested canopy and to blend new development into the landscape as viewed from off-site, to protect natural resources, critical wildlife habitat and travel corridors, and to provide for the sustainable, ongoing management of forest resources to the greatest extent feasible by:

- (a) Maintaining a forested buffer between homes;
- (b) Minimizing lot coverage and building footprint;
- (c) Avoiding long driveways or large parking areas;

- (d) Clearing only as much vegetation at the edge of the road as necessary to create a driveway entrance with adequate sight distance and proper drainage control;
- (e) Retaining existing or planting additional woody vegetation in undisturbed, naturalistic groupings, rather than singly as specimen trees, within cleared areas;
- (f) Using native vegetation;
- (g) Minimizing lawn area; and
- (h) Selectively cutting small trees and the lower branches of large trees, rather than removing mature trees, to create narrow view corridors between trees and beneath tree canopies.

ARTICLE VIII. ADMINISTRATION & ENFORCEMENT

Section 801 - Zoning Administrator

(A) A Zoning Administrator (ZA) shall be nominated by the PC and appointed by the Selectboard for a 3-year term to administer this Ordinance.

(B) The PC may nominate and the Selectboard may appoint an Acting Zoning Administrator who shall have the same duties and responsibilities as the ZA in the ZA's absence or in cases of conflict of interest.

(C) The ZA is subject to any personnel policies legally adopted by the Town. The Selectboard may remove a Zoning Administrator for cause at any time, after consultation with the Planning Commission. The Selectboard must provide the ZA with a hearing, if requested. At the hearing, the ZA must have an opportunity to bring witnesses and provide other evidence to show that there is no good cause for dismissal.

(D) The ZA shall literally enforce the provisions of this Ordinance and in so doing shall inspect developments, maintain records and perform all other necessary tasks to carry out the provisions of this Ordinance. The ZA shall not permit any development that is not in conformance with this Ordinance.

(E) The ZA shall coordinate a unified effort for the Town in administering its development review programs. The ZA shall provide applicants with all forms required to obtain permits or approvals under these bylaws and should assist applicants in navigating the Town's regulatory processes. The ZA shall also inform applicants to contact the state's regional permit specialist in order to assure timely action on any related state permits. However, it remains the applicant's responsibility to identify, apply for and obtain the necessary state permits.

Section 802 - Planning Commission

The Planning Commission (PC) shall have 5 to 9 voting members elected by the legal voters of the Town for 3-year terms, on a rotating basis, in accordance with the provisions of 24 V.S.A. 117 §4323. Vacancies shall be filled by appointment of the Selectboard only until the next Town Meeting, at which time the voters shall elect a Commissioner to fill the unexpired term. Selectboard members shall be nonvoting, *ex officio* members of the PC, and the Selectboard may also appoint alternates to serve on

the PC, in accordance with the provisions of 24 V.S.A. 117 §4460(c). The Planning Commission shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under 24 V.S.A. 117 §4461(a) and Vermont's Open Meeting Law, 1 V.S.A. 5 §§310-314. The Commission shall have all powers and duties as set forth in State Statutes to administer the provisions of this Ordinance, including but not limited to the power to hear and act upon:

- (1) proposed amendments to this Ordinance, and to consider proposed amendments submitted by others;
- (2) preparation and approval of written reports on any proposed amendment to this Ordinance, as required by 24 V.S.A. 117 §4441(c);
- (3) one or more warned public hearings on proposed amendments to this Ordinance, prior to submission of a proposed amendment and written report to the Selectboard, as required by 24 V.S.A. 117 §4441(d);
- (4) applications for development review, under the provisions of Article VII of this Ordinance.

Section 803 - Zoning Board of Adjustment

(A) The membership of the ZBA shall consist of the members of the Planning Commission (PC). The Selectboard may also appoint alternates to serve on the ZBA, in accordance with the provisions of 24 V.S.A. 117 §4460(c). Alternates shall serve in situations where one or more members of the ZBA have a conflict of interest or are otherwise unable to serve.

(B) The Zoning Board of Adjustment (ZBA) shall perform all development review functions designated to it under this Ordinance (appeals, variances and conditional uses).

(C) Except for appeals of ZA's decisions, all matters shall come before the ZBA by referral from the ZA.

(D) All meetings of the ZBA, except for deliberative sessions, shall be open to the public.

Section 804 - Fees

The Selectboard may establish reasonable fees to be charged to the applicant for the administration of this Ordinance. These fees may include the cost of posting and publishing notices, holding public hearings, and conducting periodic inspections during construction and/or to determine ongoing compliance when required as a condition of approval.

Section 805 - Zoning Permit

(A) **Applicability.** No land development requiring a zoning permit shall commence until the ZA issues a permit in conformance with this Ordinance and the 15-day period for appeal under Section 807 has passed. In the event that a notice of appeal is properly filed, no land development shall commence until the appeal has been decided.

(B) Temporary Use Permits. Temporary use permits may be issued by the Zoning Administrator for the following, except for (2) (c), as noted below, provided all setbacks and dimensional requirements of this Ordinance are met, and any necessary State permits are obtained.

(1) **Temporary Shelters, Storage Spaces or Living Quarters** on properties on which new construction, substantial repairs or reconstruction of principal dwellings is taking place for a period of one (1) year, provided such permits are conditioned upon agreement by the owner to remove the structure or convert it to an alternative conforming use upon expiration of the permit or completion of the construction. Such permits may be renewed upon application for a period not exceeding one (1) additional year.

(2) Special Events

(a) Charitable events (e.g. concerts, festivals, fairs, trade shows and antique shows) for a period of one (1) year provided that off-street parking and circulation, sanitary and trash collection facilities are provided on site during the term of use, and that the use will be discontinued and any temporary structures associated with it removed upon expiration of the permit.

(b) Family or household events (e.g. garage or yard sales or auctions or family reunions, weddings and wedding receptions) are exempt from this provision as stipulated in subparagraph (C) (18) of this Ordinance, and shall not require a zoning permit.

(c) Special events of a commercial nature - for profit - and expected to draw a crowd in excess of one-hundred (100) people or extending more than seven (7) days within a twelve (12) month period, shall be subject to conditional use review and approval by the Zoning Board of Adjustment under provisions of Section 810 of this Ordinance, prior to the issuance of a temporary zoning permit therefor.

(C) Exemptions. No zoning permit shall be required for the following activities, as provided for in 24 V.S.A. 117 §4413, but they shall be constructed or undertaken in accordance with the provisions of this Ordinance, including compliance with all setbacks and dimensional requirements unless otherwise specified in this Ordinance:

***Note:** These exemptions may not apply in the Special Flood Hazard Area.*

(1) Accepted agricultural practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets, in accordance with the provisions of 24 V.S.A. 117 §4413(d). Written notification, including a sketch plan showing structure setback distances from road rights-of-way, property lines, and surface waters shall be submitted to the Zoning Administrator prior to any construction, as required by Accepted Agricultural Practices. Such structures shall meet all setback requirements under this Ordinance, unless specifically waived by the Secretary.

(2) Accepted management practices for silviculture (forestry) as those practices are defined by the Commissioner of Forests, Parks and Recreation, in accordance with the provisions of 24 V.S.A. 117 §4413(d).

- (3) Power generation and transmission facilities, which are regulated under the provisions of 30 V.S.A. 5 §248 by the Vermont Public Utility Commission. Such facilities, however, should conform to policies and objectives specified for such development in the Town Plan.
 - (4) Hunting, fishing, and trapping as specified under 24 V.S.A. 61 §2295, on private or public land.
 - (5) Outdoor recreational trails (e.g., walking, hiking, cross-country skiing and snowmobile trails) which do not require the installation of structures or parking areas.
 - (6) The normal maintenance and repair of existing structures, utilities and infrastructure that does not result in any change to the footprint or height of a structure or any change in use.
 - (7) Interior alterations that do not result in any change in use or intensification of use, and that do not alter or expand the exterior of the structure.
 - (8) Doghouses, sheds, playhouses, tree houses or similar structures not to exceed 120 square feet in floor area or 10 feet in height. In the case of multiple small accessory structures located on single lot, the area of all structures of the same type or intended for the same use shall be added together to determine eligibility for this exemption.
 - (9) One lightweight, portable shelter structure not to exceed 200 square feet in floor area or 10 feet in height.
 - (10) Fences or walls not more than 4 feet tall that do not interfere with corner visibility, road safety and maintenance practices.
 - (11) Chimneys.
 - (12) Patios, terraces and similar unroofed structures at grade.
 - (13) Residential entry stairs (excluding decks and porches), handicap ramps and walkways that do not obstruct public rights-of-way.
 - (14) Arbors, trellises, pergolas and similar decorative or support structures related to a gardening use.
 - (15) Minor grading and excavation associated with normal road, driveway and parking area maintenance and residential lawn and yard maintenance.
 - (16) Signs, as listed in Section 424.
 - (17) Holiday light displays and streetlights.
 - (18) Garage sales, yard sales or auctions or family events (e.g. family reunions, weddings and wedding receptions) lasting not more than three (3) consecutive days and not more than a total of twelve (12) days per calendar year
- (D)** An application for a zoning permit shall be submitted to the ZA on forms provided by the Town, along with any application fees as established by the Selectboard.
- (E)** Upon receipt of an application and the associated fee, the ZA shall determine whether the application is complete. After an application is deemed complete, the ZA has 30 days to approve, deny or refer the application to the PC/ZBA. Failure to act within 30 days shall be deemed approval.

(F) The ZA shall approve or deny permits in writing, in accordance with 24 V.S.A. 117 §4449. Denials shall include a statement of the time in which appeals may be made under Section 807 of this Ordinance. Information regarding permit display under Section 805(J), and required inspections and certificates of compliance under Section 806 shall be issued with the zoning permit as applicable.

(G) The ZA shall only issue a zoning permit in accordance with 24 V.S.A. 117 §4449 and the following provisions:

(1) No zoning permit shall be issued by the ZA for any development that requires the approval of the PC/ZBA and/or Selectboard until such approval has been obtained.

(2) No zoning permit shall be issued by the ZA for development on a lot for which subdivision approval is required until such approval has been obtained and the plat has been properly recorded.

(H) The ZA shall deliver a copy of the permit to the Listers and shall post a copy of the permit at the Town Office within 3 days after issuing a permit. The permit shall be posted for a period of 15 days from the date of issuance.

(I) The ZA shall deliver a Memorandum of Municipal Action to the Town Clerk for recording within 30 days after issuing a permit. The ZA shall also file a copy of the permit as part of the ZA's records in the Town offices.

(J) The notice of a zoning permit shall be posted on the property within view of the nearest public right-of-way for a period of 15 days from the date of issuance. The applicant is responsible for posting the permit and ensuring that it remains posted throughout the appeal period.

(K) Zoning permits and associated approvals shall remain in effect for 2 years from the date of issuance, unless the permit specifies otherwise. All development authorized by a zoning permit shall be substantially completed within this period or the zoning permit shall become null and void. If a permit expires, the applicant shall begin the application and approval process anew. The ZA may grant a single, 1-year administrative extension if the extension is requested before the permit expiration date and the ZA determines that all improvements completed to date conform to permit requirements and this Ordinance.

Section 806 - Certificate of Occupancy

(A) A Certificate of Occupancy issued by the zoning administrator shall be required prior to the use or occupancy of any permitted structure or part thereof constructed after the effective date of this bylaw.

(B) An application for a Certificate of Occupancy shall be provided with the zoning permit issued by the ZA, or upon request. The applicant shall submit the application and associated fee upon the completion of permitted improvements, but prior to the occupancy or use of the structure.

(C) Notwithstanding the preceding, a Certificate of Occupancy shall not be required for:

(1) alterations, additions and renovations which do not create additional dwelling units, provided such alterations, additions and renovations are consistent with all other requirements of these regulations,

(2) any structure that does not have more than six hundred (600) square feet of Gross Floor Area and, does not contain any water facilities or sewage facilities,

(3) is a temporary building used in connection with a work site while work is ongoing.

These provisions apply to all land development in the town of Sudbury commenced within 15 years prior to the date of adoption of this provision.

(D) The application for the Certificate of Occupancy shall include a copy of all required state and federal permits.

(E) Within 14 days of the date of receipt of a complete application and associated fees for a Certificate of Occupancy, the ZA or designee will:

1. Review the application and other available documentation to ensure that all required municipal, state and federal permits have been obtained.
2. Inspect the premises to ensure that all work has been completed in conformance with the zoning permit and associated approvals, including all applicable permit conditions, and
3. Ensure that a Vermont Residential or Commercial Building Energy Standards certificate has been recorded in the Town land records pursuant to 24 .V.S.A. Section 4449(a)(2), if applicable.

(F) Based on these findings the ZA may:

1. Find that the permit conditions have been met and issue the Certificate of Occupancy.
2. Find that the permit conditions have not been met and, if the development conforms to all applicable provisions of this Ordinance, require the applicant submit an amended application for the project as constructed before issuing a Certificate of Occupancy.
3. Find that the permit conditions have not been met and, if the development does not conform to all applicable provisions of the Ordinance, the ZA shall deny the Certificate of Occupancy and follow the procedures set forth in Section 821 for violations of this Ordinance.

(G) If the ZA fails to either grant or deny the certificate of occupancy within 30 days of the submission of a complete application, the Certificate shall be deemed issued on the 31st day.

(H) The ZA may issue a temporary Certificate of Occupancy for a structure that is substantially complete (suitable for occupancy or its intended use), for a period not to exceed one year from the date of issuance. The temporary certificate shall specify the remaining improvements to be completed in accordance with permit requirements prior to the issuance of a permanent Certificate of Occupancy.

(I) The ZA shall deliver a Memorandum of Municipal Action (MOMA) to the Town Clerk for recording within 30 days after issuing a Certificate of Occupancy. The ZA shall also file a copy of the Certificate of Occupancy as part of the ZA's records in the Town office.

Section 807 - Appeals

(A) Appeal of an Act or Decision of the ZA.

- (1) In addition to the applicant, any interested person (as defined in Section 814 of this Ordinance) may appeal a decision or act of the ZA by filing 2 copies of a notice of appeal within 15 days of the decision or act with the Clerk of the ZBA,

who shall immediately notify the Chair of the ZBA and the ZA that an appeal has been filed.

- (a) When an appeal is delivered to the Town Office and received by the Town Clerk, the Town Clerk shall immediately notify the Clerk of the ZBA. An appeal shall be considered filed as of the date it is delivered to the Town Office, if not delivered directly to the Clerk of the ZBA.
 - (b) One copy of the notice of appeal shall be forwarded to the ZA and the other shall be forwarded to the ZBA.
- (2) A notice of appeal shall be in writing and shall include the following information:
- (a) The name and address of the appellant;
 - (b) A copy of the ZA's decision (if appeal of a zoning permit, also include a copy of the permit application);
 - (c) A brief description of the property with respect to which the appeal is being brought;
 - (d) A reference to the applicable provisions of this Ordinance; and
 - (e) Any relief being requested by the appellant, including a request for a variance or waiver.
- (3) If an interested person other than the applicant files the appeal, the ZA shall immediately inform the applicant that an appeal has been filed and advise the applicant that the project shall not commence until the appeal has been decided.
- (4) The hearing shall be warned as per Section 815(A) of this Ordinance.
- (5) The ZBA may reject an appeal without a hearing and render a decision within 10 days of the filing of a notice of appeal if the ZBA determines that the issues raised by the appellant have been decided in an earlier appeal, or are based on the same facts, by or on behalf of the appellant.
- (6) The ZBA shall issue a written decision, with findings of fact, within 45 days after closing the hearing in accordance with Section 817 of this Ordinance.

(B) Appeal of an Act or Decision of the PC/ZBA. Any interested person as defined in Section 814 of this Ordinance who participated in a hearing on a matter before the PC/ZBA may appeal that decision to the Environmental Division of the Vermont Superior Court. Notice of appeal shall be sent to every interested person who participated in the Town hearing, and the applicant if not the appellant.

Section 808 - Variances

(A) Purpose. The procedures below apply to an applicant who has been denied a permit by the ZA, who is appealing that decision and who is proposing a project that would require deviating from the provisions of this Ordinance.

(B) Procedure. The steps to be taken to file and review a request for a variance are the same as those specified in Section 807(A) of this Ordinance, with the addition of the following:

(1) In addition to the submittal requirements listed in Section 807(A)(2), the applicant's notice shall also include a brief response to each of the conditions listed in 24 V.S.A. 117 §4469(a), as applicable.

(2) The ZBA shall make its decision on the request for variance by applying the facts presented in the request for a variance and at its hearing to the conditions listed in 24 V.S.A. 117 §4469(a), as applicable. All conditions shall be met for the ZBA to grant a variance. The ZBA shall respond to each condition in its written findings of fact. See General Conditions, below.

(C) General Conditions. The ZBA shall only grant a variance if *all* of the following conditions are met.

(1) 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. These conditions, and not the circumstances or conditions generally created by the provisions of this Ordinance in the district in which the property is located, have created an unnecessary hardship for the appellant.

(2) Those physical circumstances or conditions prevent the property from possibly being developed in strict conformity with this Ordinance and a variance is necessary to enable reasonable use of the property.

(3) The appellant has not created the unnecessary hardship.

(4) The proposed project would not:

(a) Alter the essential character of the area or district in which the property is located.

(b) Substantially or permanently impair the appropriate use or development of adjacent property.

(c) Reduce access to renewable energy resources.

(d) Be detrimental to the public welfare.

(5) The appellant is proposing the least deviation possible from this Ordinance and from the Town Plan that will afford relief.

(D) Renewable Energy Structure Conditions. If a variance is being requested for a structure that is primarily a renewable energy resource structure, the ZBA shall only grant a variance if *all* of the following conditions are met:

(1) It would be unusually difficult or unduly expensive for the appellant to build a sustainable renewable energy resource structure in conformance with this Ordinance.

(2) The appellant has not created an unnecessary hardship.

(3) The proposed project would not:

(a) alter the essential character of the area or district in which the property is located.

(b) substantially or permanently impair the appropriate use or development of adjacent property.

- (c) reduce access to renewable energy resources.
- (d) be detrimental to the public welfare.
- (4) The appellant is proposing the least deviation possible from this Ordinance and from the Town Plan that will afford relief.

Section 809 - Waivers

- (A) Requests for waivers of dimensional requirements are considered by the Zoning Board of Adjustment and will follow the process of a conditional use.
- (B) Waivers will be granted to allow for minor additions to a principal or accessory structure that would not be counter to the purpose of this Ordinance or the Town Plan, but which might not meet the standards for the granting of a variance.
- (C) A waiver may be granted only to reduce dimensional requirements as provided below, and compliance with all other requirements of this Ordinance is required. The Zoning Board of Adjustment may grant a waiver provided all of the following conditions are satisfied:
- (1) The proposal is for an addition to an existing principal or accessory structure.
 - (2) The addition is the minimum size that is necessary for it to serve its intended function.
 - (3) The addition is specifically intended to improve access for disabled persons, or to improve fire safety, or for a porch, deck, entryway, stairway, or other minor addition to an existing building, or for energy conservation and renewable energy structures.
 - (4) No side or rear yard setback shall be reduced to less than 15 feet for the Lakeshore Residential (R-□) zoning district; 20 feet for the Village Residential (R-1) zoning district and 25 feet for the Rural Residential (R-10) zoning district.
 - (5) The maximum lot coverage specified for the zoning district may not be exceeded.
- (D) The ZBA may impose conditions regarding the design and screening of the addition to mitigate any impacts on neighboring properties.
- (E) Appeals to requests for waivers shall follow the same appeal process for denial of a conditional use.

Section 810 - Conditional Use Review

- (A) **Application Requirements.** The following materials shall be submitted with an application for conditional use review unless waived as per Paragraph (C) of this section:
- (1) Names and addresses of the property owner, applicant and owners of adjoining and facing properties.
 - (2) Project description (not to exceed one page).
 - (3) Site location map showing project location in relation to public roads, and adjoining and facing properties.
 - (4) Photographs of the site are recommended but not required.
 - (5) A site plan including all elements specified in Table 8-1 unless waived by the ZBA.

(B) Application Process. An applicant for conditional use review shall submit a complete application, 1 original and 8 copies of the site plan (plan copies may be reduced to 11" x 17" inches) and any applicable fees to the ZBA for consideration at a formally warned meeting of the ZBA. A potential applicant may request an informal meeting with the ZBA before submitting an application for review.

(C) Waiver of Application Materials. The application shall not be considered complete until the applicant submits all of the application materials listed in paragraphs (A) and (B) of this section. The ZBA may waive one or more of the listed items, in accordance with Section 811(C) of this Ordinance, if it determines the item(s) to be unnecessary for the comprehensive review of the application.

(D) Additional Information. The ZBA may request additional information during the review process including, but not limited to:

- (1) Information pertaining to any conservation areas on the site, critical wildlife habitat, important agricultural or forest soils, historic features or structures, or archeological resources.
- (2) Architectural elevations of proposed structures and samples of finish materials and/or colors.
- (3) Draft legal documents such as easements, open space agreements, private road agreements, or maintenance agreements.
- (4) Construction staging plan and schedule, including the sequence and timing of proposed site development and related improvements.
- (5) Landscaping plan.
- (6) Lighting plan.
- (7) Stormwater management and erosion control plan.
- (8) Traffic impact analysis.
- (9) Environmental impact analysis.
- (10) Visual impact analysis.

(E) Notice and Hearing. The ZBA shall hold a public hearing on the application for conditional use within 60 days of its filing. The hearing shall be warned as per Section 815(A) of this Ordinance.

(F) Review and Decision. The ZBA shall review an application for conditional use based on all applicable provisions of Article V of this Ordinance. The ZBA may place conditions as deemed necessary to achieve the purposes of this Ordinance and the goals of the Sudbury Town Plan. The ZBA shall issue a written decision, with findings of fact, within 45 days after closing the hearing in accordance with Section 817 of this Ordinance.

(G) Implementation of Approved Conditional Uses. All conditional uses approved by the Zoning Board of Adjustment after a public hearing must be acted upon in the form of a zoning permit application to the Zoning Administrator within one-hundred and eighty (180) days of the date of the Board's approval decision, or the approval shall expire. The Zoning Administrator may extend this limit an additional 90 days if final local and State permits or approvals are still pending. No changes shall be made after approval has been given.

Section 811 - Subdivision Review

(A) Applicability. Except as specifically exempted under Paragraph (B) of this section, subdivision approval by the PC is required prior to undertaking:

- (1) Any construction, building development, grading, land clearing (excluding forestry, or agricultural or surveying activities) associated with the subdivision of land; or
- (2) Any sale, conveyance or lease of any subdivided portion of a property; or
- (3) The issuance of any permit for any land development involving land to be subdivided; or
- (4) The filing of a subdivision plat with the Town Clerk.

(B) Exemptions. The following are specifically exempted from subdivision review under this section:

- (1) The conveyance of land for agricultural purposes, which does not involve the creation of any new roads for uses other than accepted agricultural practices.
- (2) The conveyance of land for conservation or recreation purposes, which has had its development rights removed.
- (3) The lease of land and/or structures for the purpose of siting communications, energy generation or public utility infrastructure.
- (4) The conveyance of rights-of way or easements that do not result in the subdivision of land.
- (5) Boundary adjustments approved administratively under Section 712(F) of this Ordinance.

(C) Informational Meeting. Applicants shall schedule an informational meeting with the PC to discuss the subdivision design and subdivision review process. At the informational meeting, the PC shall determine what steps of the subdivision design and subdivision review process described in Paragraph (D) the applicant will be required to follow. Applicants may be required to complete all, only the final or any combination of the four steps as deemed appropriate by the PC based on the complexity of the proposed subdivision and/or character of the land to be subdivided. Applicants may request a waiver of application materials as per Section 810(C) of this Ordinance at the informational meeting.

(D) Subdivision Design and Review Process:

(1) Step One – Context and Site Analysis.

- (a) **Context Map.** The applicant shall submit a Context Map showing all elements listed in Table 8-1 at a scale of 1 inch = 400 feet and including all land within 1/2 mile of the parcel to be subdivided. The Context Map may consist of multiple sheets if necessary to clearly show multiple data layers, but the entire area should be shown on each sheet. The purpose of the Context Map is to acquaint the applicant/property owner, the PC and other interested persons with the resources and development patterns near the development site at an early stage in the process. Applicants are encouraged to use aerial orthophotography as a base for the context map if available.
- (b) **Existing Resources Plan.** The applicant shall submit an Existing

Resources Plan showing the features and resources on the parcel to be subdivided as listed in Table 8-1 at a scale of not more than 1 inch = 200 feet. The Existing Resources Plan may consist of multiple sheets if necessary to clearly show multiple data layers, but the entire area should be shown on each sheet. The purpose of the Existing Resources Plan is to provide the applicant/property owner, PC and other interested persons with all they need to know about the property in terms of its noteworthy natural and cultural features. Supplementing the Existing Resources Plan with photographs of the property is encouraged.

(c) **Qualified Professionals.** The applicant is encouraged to work with one or more qualified professionals such as a landscape architect, planner with natural resources expertise, forester, conservation biologist, etc. in developing the materials needed for Step One, Step Two and Step Three of the subdivision design and review process. The use of handheld GPS units to document the location of site features is encouraged. Surveying or engineering shall only be required at Step Four of the subdivision design and review process.

(d) **Submission of Materials.** The applicant shall submit a complete application, 1 original and 8 copies of the Context Map and Existing Resources Plan (plan copies may be reduced to 11 x 17 inches) and any applicable fees to the ZA. Within 30 days of receipt of the required materials and applicable fees, the ZA shall work with the applicant and PC to schedule Step Two of the subdivision process.

(2) Step Two – Site Visit and Pre-Design Hearing.

(a) **Site Visit.** Because it may be difficult to completely understand a site only by examining a two-dimensional paper document inside a meeting room, the PC may walk the property with the Context Map and Existing Resources Plan to gather first-hand knowledge of the site. Applicants/property owners are encouraged to open the site walk to all interested persons. If the site walk will not be open to the public, the applicant shall be responsible for making a video recording of the walk, which shall be introduced as part of the record.

(b) **Pre-Design Hearing.** Following the site visit, the PC shall hold a public hearing to be noticed as per Section 815(B) of this Ordinance to discuss the potential subdivision. This hearing should provide an opportunity for review of the Context Map, Existing Resources Plan and Site Visit, as well as the applicable provisions of this Ordinance. It should also allow for communication between all parties before significant time and money has been spent on the subdivision plan with the goal of reducing the potential of future conflicts and the need for multiple revisions to the proposed plan. The applicant may request a waiver of application requirements for Step Three of the subdivision design and review process at the hearing.

(c) **Action by the PC.** Within 45 days of the date of adjournment of the public hearing, the PC shall issue a written response to include:

- (i) The granting or denial of any waiver requests;

- (ii) A preliminary indication of whether or not the subdivision plan envisioned by the applicant generally conforms to applicable development and subdivision review standards under Article VII of this Ordinance, or would be in conflict with the Sudbury Town Plan and other municipal bylaws currently in effect; and
- (iii) Any recommendations for proposed changes in subsequent submissions and any requests for additional studies or supporting documentation.

Table 8-1. Subdivision Application Requirements

		Context Map	Existing Resources Map	Conceptual Preliminary Plan	Engineered Final Plan
1	Preparer information/certifications			✓	✓
2	Scale	✓	✓	✓	✓
3	North arrow, legend & title block (date, title, page number, etc.)	✓	✓	✓	✓
4	Existing lot lines & dimensions	Drawn	drawn		
5	Proposed lot lines & dimensions			drawn	surveyed
6	Adjoining land uses	✓			
7	Zoning district boundaries	✓	✓		
8	Existing public, common or conserved land	Drawn	drawn		
9	Proposed public, common or conserved land			drawn	surveyed
10	Existing elevations (contour lines)	20 ft (USGS/LIDAR)	20 ft	10 ft	10 ft surveyed
11	Proposed elevations (contour lines)			10 ft drawn	2 ft surveyed
12	Moderate/steep slopes & ridgelines	✓	✓		
13	Geologic formations (rock outcroppings, ledge, cliffs, etc.)		✓		

14	Existing natural drainage (swales, ditches, etc.)		✓		
15	Surface waters (streams, ponds, etc.)	✓	✓	✓	✓
16	Source water protection areas	✓	✓		
17	Flood hazard/fluvial erosion hazard areas	✓	✓	✓	✓
18	Wetlands	✓	✓	✓	✓
19	Vegetative cover types (meadow, old fields, woodland, etc.)	✓	✓		
20	Primary agricultural soils		✓		
21	Woodland canopy lines/trees with a caliper of 15+ inches		✓		
22	Critical wildlife habitat & wildlife Travel corridors	✓	✓		
23	Archeological, historic and/or cultural resources	✓	✓		
24	Existing roads, trails, paths, sidewalks, parking areas & ROWs	drawn	drawn		
25	Proposed roads, trails, paths, sidewalks, parking areas & ROWs			drawn	surveyed
26	Existing buildings and/or building envelopes	drawn	drawn		
27	Proposed buildings and/or building envelopes			drawn	surveyed
28	Existing utilities, water, wastewater & stormwater systems & ROWs	drawn	drawn		
29	Proposed utilities, water, wastewater & stormwater systems & ROWs			drawn	surveyed

(3) **Step Three – Preliminary Design.** In Step Three, the overall concept for the subdivision should be outlined, showing areas of proposed development and areas

of proposed conservation or open/public space.

(a) **Design Process.** Applicants are strongly encouraged to use the following process when designing their subdivisions:

- (i) Determine location of open space.
- (ii) Select building locations.
- (iii) Align roads, driveways and trails to connect the homes.
- (iv) Draw lot lines and/or development envelopes.

(b) **Conceptual Preliminary Plan.** The Conceptual Preliminary Plan shall be drawn to scale so that it can be laid on top of the Existing Resources Plan to illustrate the relationship between the proposed layout and the natural and cultural resources existing on the site. Elements to be included on the Conceptual Preliminary Plan are listed in Table 8-1. The original of the Conceptual Preliminary Plan shall be drawn or printed on a translucent or transparent overlay sheet so it can be overlaid on the Existing Resources Plan.

(c) **Submission of Materials.** Not more than 12 months from date the pre-design hearing was closed, the applicant shall submit 1 original and 8 copies of the Conceptual Preliminary Plan (copies may be reduced to 11" x 17" and may be printed on opaque paper) and any supporting materials, along with any associated fees, to the ZA. Within 30 days of the receipt of all required materials and applicable fees, a PC hearing shall be scheduled and warned as per Section 815(B) of this Ordinance.

(d) **Preliminary Design Hearing.** The PC shall hold a public hearing on the preliminary design as presented in the Conceptual Preliminary Plan. The applicant may request waiver of application requirements as per Section 810(C) required for Step Four at the preliminary design hearing.

(e) **Action by the PC.** Within 45 days of the date of adjournment of the public hearing, the PC shall issue a written response including:

- (i) The granting or denial of any waiver requests;
- (ii) A determination of whether or not the preliminary design as presented in the Conceptual Preliminary Plan conforms to applicable development and subdivision review standards under Article VII of this Ordinance, or would be in conflict with the Sudbury Town Plan and other municipal bylaws in effect; and
- (iii) Any recommendations for proposed changes in subsequent submissions and any requests for additional studies or supporting documentation.

(4) Step Four – Final Design.

(a) **Engineered Final Plan.** Elements to be included on the Engineered Final Plan are listed in Table 8-1.

(b) **Submission of Materials.** Not more than 12 months after date the preliminary design hearing is closed, the applicant shall submit 1 original and 8 copies of the Engineered Final Plan (copies may be reduced

to 11" x 17") and any supporting materials, along with any associated fees, to the ZA. Within 30 days of the receipt of all required materials and applicable fees, a PC hearing shall be scheduled and warned as per Section 815(A).

(c) **Final Design Hearing.** The PC shall hold a public hearing on the final design as presented in the Engineered Final Plan.

(d) **Action by the PC.** Within 45 days of the date of adjournment of the public hearing, the PC shall act to approve, approve with conditions, or deny the final plan, based on a determination of whether or not the plan and associated plat conform to the development and subdivision review standards under Article VII of this Ordinance, or would be in conflict with the Sudbury Town Plan and other municipal regulations in effect. Approval, conditions of approval, or grounds for denial shall be set forth in a written notice of decision issued in accordance with Section 817 of this Ordinance.

(E) **Effect of Final Plan Approval.** The approval by the PC of a final subdivision plan and associated plat shall not be construed to constitute acceptance of any legal interest by the Town of any road, easement, utility, park, recreation facility, or other open space shown on the final plat. Such acceptance may be accomplished only by a formal resolution of the Selectboard, in accordance with state statute. Each approval for a final plan may contain a time limit within which all improvements necessary for the subsequent development of the subdivided lots (i.e., roads, utilities) shall be completed, not to exceed 3 years unless otherwise required or extended by the PC.

(F) **Plat Recording Requirements.** Within 180 days of the date of receipt of final plat approval, the applicant shall file 3 copies of the final subdivision plat, including 1 mylar copy and 2 paper copies, for recording with the Town in conformance with the requirements of 27 V.S.A. Chapter 17. Approval of subdivision plats not filed and recorded within this 180-day period shall expire. The ZA may, however, grant one 90-day extension for plat filing in the event the applicant documents that other required local and/or state permits are still pending.

(G) **Amendments to an Approved Plat.** No changes, modifications, or other revisions that alter the plat or conditions attached to an approved subdivision plan shall be made unless the proposed revisions are first resubmitted to the PC and the PC approves such revisions after public hearing noticed as per Section 815(B) of this Ordinance. Within 45 days of the date of adjournment of the public hearing, the PC shall act to approve, approve with conditions, or deny the amendment, based on a determination of whether or not the plan and associated plat conform to the development and subdivision review standards under Article VII of this Ordinance, or would be in conflict with the Sudbury Town Plan and other municipal regulations in effect. Approval, conditions of approval, or grounds for denial shall be set forth in a written notice of decision issued in accordance with Section 818 of this Ordinance. In the event that such subdivision plan revisions are recorded without complying with this requirement, the revisions shall be considered null and void.

Section 812 - Planned Unit Development Review

(A) Application Requirements. Applications for planned unit development (PUD) review shall be submitted in conjunction with a subdivision application. Additional submissions for PUDs are listed in Table 8-1.

(B) Coordination with Other Review Processes.

(1) A PUD application shall be reviewed simultaneously with the subdivision application.

(2) Approval for a PUD that involves the development of one or more conditional uses shall not exempt the project from conditional use review. The applicant may request that the conditional use or any other applicable review be combined with PUD review.

(C) Application Process. The PUD review shall follow the procedures applicable to subdivisions as specified in Section 811 of this Ordinance.

(D) Review and Decision. The PC shall review and issue a decision on an application for a PUD in accordance with the procedures applicable to subdivisions as specified in Section 811 of this Ordinance. At the time of PUD approval, the PC shall include in its written decision a clear indication of all approved modifications of the district(s) development standards. The PC may approve PUDs with conditions related to the location, scale, density, intensity and/or overall design of future development within the PUD.

Section 813 - Combined Review

(A) In cases where a proposed project will require more than one type of development review, the PC/ZBA may warn and hold a single hearing for the purpose of reviewing and acting on the project. The ZA shall identify proposed projects appropriate for combined review and assist applicants in preparing and submitting coordinated applications to facilitate combined review.

(B) Notice for a combined review hearing shall be made in accordance with Section 815(A) of this Ordinance. The hearing notice shall include a statement that the hearing will be a combined review of the proposed project and list each review process that will be conducted at the hearing.

(C) All hearing and decision requirements, and all deadlines applicable to each review process shall apply. The PC/ZBA may issue separate written decisions for each review conducted as part of the combined review, but they should be coordinated where appropriate.

Section 814 - Interested Person

(A) For the purposes of this Ordinance, an interested person shall be defined as:

- (1) The owner of property that is the subject of any decision made under this Ordinance;
- (2) The Town, or any adjoining municipality;
- (3) An owner of property in the immediate neighborhood of a property that

- is the subject of any decision made under this Ordinance, who can demonstrate a physical or environmental impact on their interest under the criteria reviewed, and who alleges that the decision, if confirmed, will not be in accord with the Town Plan or the bylaws of the Town;
- (4) Any 10 persons who may be any combination of voters or real property owners within the Town who, by signed petition to the PC/ZBA, allege that any relief requested by a person under this Ordinance, if granted, will not be in accord with the Town Plan or the bylaws of the Town. This petition shall designate one person to serve as the representative of the petitioners regarding all matters related to the appeal; or
- (5) Any department and administrative subdivision of this State owning property or any interest in property within the Town, and the Vermont Agency of Commerce and Community Development.
- (B)** In accordance with the provisions of 24 V.S.A. 117 §4471, an interested person who has participated in a regulatory proceeding of the Zoning Board of Adjustment may appeal a decision rendered under Section 807 within 30 days of such decision, to the Environmental Division of the Vermont Superior Court.

Section 815 - Public Notice

- (A)** A public hearing, warned as described below, shall be required for all requests for conditional use approval, variances, appeals of ZA's decisions and actions, and final subdivision plan approvals.
- (1) The date, place and purpose of the hearing shall be published in a newspaper of general circulation in the Town not less than 15 days before the date of the public hearing.
- (2) The date, place and purpose of the hearing shall be posted in 3 or more public places within the Town not less than 15 days before the date of the public hearing. One of the public posting places shall be on the property within view of the nearest public right-of-way. The Town shall provide the property owner with a form for posting. It is the responsibility of the property owner to ensure that the notice remains posted for the entire warning period.
- (3) Written notification shall be sent by first-class mail to the property owner (if not the applicant or appellant) and to owners of all properties adjoining the property subject to development, without regard to any public right-of-way. 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 local proceeding is a prerequisite to the right to take any subsequent appeal. The Town may supply applicants or appellants with notification forms and require they be sent by certified mail return receipt requested or hand delivered with proof of delivery submitted before or at the start of the hearing.
- (B)** A public hearing, warned as described below, shall be required for all other types of development review including requests for waivers, preliminary subdivision plan review, approval of subdivision amendments.

- (1) The date, place and purpose of the hearing shall be posted in 3 or more public places within the Town not less than 7 days before the date of the public hearing.
- (2) Written notification shall be sent to the property owner (if not the applicant or appellant) and to owners of all properties adjoining the property subject to development, without regard to any public right-of-way. 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 local proceeding is a prerequisite to the right to take any subsequent appeal. The Town may supply applicants or appellants with notification forms and require they be sent by certified mail return receipt requested or hand delivered with proof of delivery submitted before or at the start of the hearing.
- (C) No defect in the form or substance of the public notice requirements shall invalidate any act or decision of the PC/ZBA when a reasonable effort has been made to provide adequate posting and notice.
- (D) The PC/ZBA may recess a hearing on any application pending submission of additional information. Hearings that are recessed to a known date and time do not require further warnings when resumed.

Section 816 - Advisory, Technical & Legal Review

- (A) The Town may establish one or more advisory commissions, which may review applications and offer recommendations to the PC/ZBA upon request.
- (B) The Selectboard may establish procedures and standards for requiring an applicant to pay the reasonable costs of an independent technical review of an application. In accordance with such procedures and standards, the PC/ZBA may hire qualified professionals to assist in the review of applications as it deems necessary.
- (C) The Selectboard may establish procedures and standards for requiring an applicant to pay the reasonable costs of ongoing monitoring and inspection of development. The PC/ZBA may condition approval upon such monitoring and inspection, as it deems necessary.
- (D) The Selectboard may establish procedures and standards for requiring an applicant to pay the Town's direct legal expenses for the preparation and/or review of documents including but not limited to agreements, covenants, sureties or decisions.

Section 817 - Decisions

- (A) Once the PC/ZBA adjourns a hearing, it shall issue a written decision, including a statement of the facts upon which it has based its decision, within 45 days. Failure to act within 45 days shall be deemed approval.
- (B) As specified in the PC/ZBA's Rules of Procedure after closing a hearing (but not necessarily immediately following it), the PC/ZBA shall go into deliberative session, which may be closed to the public, to review evidence received at the hearing and issue a decision.

(C) In rendering a decision in favor of the applicant, the PC/ZBA may attach reasonable conditions and safeguards as it deems necessary to implement the provisions of this Ordinance and the policies of the Town Plan. Issuance of zoning permits for further development may be conditioned upon satisfactory installation of required public improvements, including roads and infrastructure.

(D) The decision shall be sent by certified mail to the applicant or appellant. Copies of the decision shall also be sent to every person, body or group who participated in the hearing. A copy of the decision shall also be filed with the ZA.

Section 818 - Performance Bond or Surety

(A) The PC/ZBA may condition approval upon the submission of a bond, escrow account, letter of credit or other surety in a form acceptable to the Selectboard to assure one or more of the following:

- (1) The completion of the project;
- (2) Adequate stabilization of the site; or
- (3) Protection of public facilities that may be affected by the project.

(B) The surety should be in an amount sufficient to cover the full cost of completing the required public improvements and their maintenance for a period of 2 years after completion as estimated by the Town. The surety may run for a term of up to 3 years as established by the PC/ZBA. With the consent of the owner, the term of the surety may be extended for an additional 3-year term.

(C) If the required improvements have not been installed or maintained as provided within the term of the surety, the surety shall be forfeited to the Town and the Town shall install or maintain the improvements to the extent and/or for the period specified in the agreement between the applicant and the Town. This provision shall not be interpreted to obligate the Town to expend funds in excess of the surety to install or maintain the required improvements.

Section 819 - Phasing and Impact Fees

(A) Upon adoption of a capital budget and program, development may be phased or limited to avoid or mitigate any undue adverse impact on existing or planned community facilities or services. Phasing shall be based on the timing of construction or implementation of related necessary public facilities and services.

(B) Upon adoption of a capital budget and program, the Town may levy impact fees in accordance with 24 V.S.A. Chapter 131.

Section 820 - Recording and Legal Requirements

(A) **Open Space Preservation.** The following shall apply to lands designated as open space not to be developed in the future:

- (1) Open space preservation shall be in perpetuity.
- (2) A metes and bounds description of the area(s) to be preserved and limits on use shall be recorded on the subdivision plat, in homeowner covenants, and on individual deeds when open space lands are not held entirely in common. Alternative means of permanent open space preservation may

include acceptance by a land conservation trust or a unit of government.

(3) Restrictive covenants shall limit uses to the continuation of agriculture, forestry or recreation that preserves rural character and any scenic resources visible from public vantage points.

(B) Homeowners' Associations. Formation of a homeowners' association or similar legal arrangement shall be required as a condition of approval for development that includes private roads, common open space and/or common buildings, infrastructure or facilities to ensure their ongoing maintenance. The obligations of maintenance of common improvements shall be clearly outlined in the deeds to all affected owners. Specifically, each deed shall have a clause stating the Town shall not be responsible for maintenance or improvements of private roads or common land or infrastructure. Costs incurred by the Town because of default on the part of the association or an owner shall be a lien on the property of the association or owner(s). The following minimum standards shall apply to associations:

- (1) Creation of the association before any lots or units are sold.
- (2) Mandatory membership by the original property owner and any subsequent owners.
- (3) Restrictions on the use and development of common space, buildings, facilities, roads and infrastructure.
- (4) Powers to assess and collect from each member a fair share of the associated costs.
- (5) Responsibility for providing adequate maintenance of common space, buildings, facilities, roads and infrastructure.
- (6) Approval of articles of incorporation, bylaws, covenants and deed restrictions by the Town's attorney.

Section 821 - Violations, Enforcement and Penalties

(A) This Ordinance shall be considered a civil Ordinance within the meaning of 24 V.S.A. Chapter 59.

(B) The Selectboard shall establish fines for violations of this Ordinance in accordance with 24 V.S.A. Chapter 117.

(C) The commencement or continuation of any development or use that is not in conformance with the provisions of this Ordinance shall constitute a violation. Each day that a violation continues shall constitute a separate offense. The ZA shall undertake appropriate action, following the procedures outlined below, to enforce the provisions of this Ordinance.

(D) The ZA shall investigate all complaints regarding violations of this Ordinance. The ZA shall commence the procedures below upon determining that a violation has occurred. Decisions or actions of the ZA in relation to violations may be appealed as per Section 807 of this Ordinance.

(E) Informal Resolution. Upon determination that there has been a violation of this Ordinance, the ZA may first attempt to contact the property owner by telephone or in person to informally resolve the violation. If such contact cannot be made or the matter is not resolved to the ZA's satisfaction within 15 days, the ZA shall issue a formal notice of violation.

(F) Notice of Violation. The ZA shall send the property owner a written notice of violation by certified mail. The notice shall:

- (1) Describe the violation and include a reference to the specific provisions of this Ordinance under which the property is in violation.
- (2) Explain that the property owner has an opportunity to cure the violation within 7 days, after which every day that the violation continues may result in a monetary fine if the ZA takes the issue to litigation in the Environmental Division of the Vermont Superior Court.
- (3) Notify the property owner that action may be brought without notice and the opportunity to cure if the violation is repeated within the succeeding 12 months.
- (4) Notify the property owner that the ZA's decision to issue the notice of violation may be appealed to the ZBA if an application is filed within 15 days of the owner's receipt of the certified notice mailing, in accordance with the provisions of Section 807(A) of this Ordinance.

ARTICLE IX: OTHER PROVISIONS

Section 901 - Interpretation of Regulation

The provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Except as provided to the contrary in 24 VSA Chapter 117 or this Ordinance, it is not intended by this Ordinance to repeal, annul or in any way impair any regulations or permits previously adopted or issued, provided, however, that where this Ordinance imposes a greater restriction upon the use of a structure or land than are required by any other statute, ordinance, rule, regulations, permit, easement or agreement, the provisions of this Ordinance shall control.

Section 902 - Fees

Fees may be established by the Select Board in amounts necessary to cover all costs of the Zoning Administrator, the Board of Adjustment and the Planning Commission for such items as processing applications, including costs of material, administrative time, reasonable overhead such as postage, telephone, and the hiring of appropriate professionals to review various aspects of an application, etc.

Section 903 - Amendments

Any provision of this Ordinance, as well as the boundaries of the various land use districts established herein, may be amended or repealed subject to the provisions of Section 4442 of 24 V.S.A. 117.

Section 904 - Warning of Disclaimer of Liability

This Ordinance does not imply that land outside the areas of special flood hazard or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the Town of Sudbury or any local official or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decisions lawfully made hereunder.

Section 905 - Severability

If any provision of this Ordinance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance, which can be given effect without the invalid provision or application.

Section 906 - Effective Date

This Ordinance shall take effect upon approval in accordance with the procedures contained in Section 4442(c)(1) of 24 V.S.A. 117.

Section 907 - Precedence of Regulation

The provisions of this Ordinance shall take precedence over any conflicting and less restrictive local laws, but not in any way impair or remove the necessity of compliance with other applicable ordinances. This Ordinance amends all preceding Unified Development Ordinances for the Town of Sudbury.