

# VILLAGE OF NORTH BENNINGTON VERMONT



## ZONING BYLAWS

Prepared by the North Bennington Village Planning Commission  
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Vermont Department of Housing and Community Affairs

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By the North Bennington Village Trustees

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## **PURPOSE:**

The regulations contained in this Bylaw are intended to implement the North Bennington Village Plan by providing for the appropriate and efficient use of land in the Village in a manner that promotes public health, safety, and general welfare. The Bylaw is further intended to advance the goals and objectives established by the Vermont Planning and Development Act (Title 24 VSA Chapter 117). By providing for the prevention and amelioration of land use problems which may exist or which may be foreseen and by providing for orderly growth and provision of public facilities and services, these regulations are intended to lead to an efficient, attractive, and desirable development pattern, provide adequate housing opportunities, and support appropriate economic development efforts.

## **SECTION 1: DEFINITIONS**

**Accessory Use:** A use customarily incidental and subordinate, and reasonably necessary, to a principal use on the same lot.

**Abandon:** The cessation of use or activity, or the cessation of construction, use, occupation, or maintenance of a building or structure, without intent to resume.

**Assisted Living Residence:** A program facility that combines housing, health, and other services to support resident independence and aging in place. At a minimum, assisted living residences shall offer, within a homelike setting, a private bedroom, private bath, living space, kitchen capacity, and a lockable door.

**Building:** Any structure having a roof and intended for the shelter, housing, or enclosure of persons, animals, or materials. Any other structure more than eight feet high shall be considered a building, including a solid fence, wall, or device to access renewable energy resources, or sound or television waves, but excluding public utility poles, highway or railroad bridges, or flagpoles.

**Building, Accessory:** Any building which is subordinate to and whose use is incidental and accessory to the use of the principal building on the same lot, or on an adjoining lot, under the same ownership. A detached accessory building shall be one which is not attached to the principal building by any covered porch, breezeway, or other roofed structure.

**Building, Principal:** The building containing the principal use of the lot or parcel, as opposed to a building containing a use customarily incidental to the principal use.

**Building Area:** the ground area enclosed by the walls of a building, together with the area of all covered porches and other roofed portions.

**Building Coverage:** The percentage which the aggregate area of all buildings on the lot bears to the area of the lot.

**Building Height:** The vertical distance from the average finished grade within 10 feet of the walls of the building to the highest point of flat or mansard roofs, including the top of a parapet, or to the mean level between the eaves and ridges for gable, hip, or gambrel roofs.

**Building Line:** A line parallel to a street at a distance equal to the required front yard, or at a greater distance when otherwise legally established by the Village or by a private covenant.

**Community Care Facility:** A residential care facility licensed by the state which provides up to 24-hour supervision, personal care services, and limited medical services to individuals who are in need of care, protection, and/or assistance to sustain the activities of daily living.

**Discontinued:** Cessation of a use or occupancy and failure to seek occupancy or use through advertisement or sales agent or other evidential process.

**District:** A district established under the provisions of these regulations and the Vermont Planning and Development Act.

**Dwelling, Multi-Family:** A building containing separate dwelling units for three or more families, having separate or joint entrances, services, or facilities.

**Dwelling, One-Family:** A detached building designated for or occupied solely as a dwelling by one family.

**Dwelling, Two-Family:** A detached building designated for or occupied solely as a dwelling by two families living independently of each other.

**Dwelling Unit:** A dwelling or part of a dwelling occupied or intended to be occupied by one family for residential purposes, containing full housekeeping facilities for the exclusive use of the occupants.

**Dwelling Unit, Accessory:** An efficiency or one bedroom dwelling unit located within or appurtenant to an owner-occupied one-family dwelling that is clearly subordinate to the one-family dwelling, which has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided that the property has sufficient wastewater capacity and that the unit does not exceed 30 percent of the total habitable floor area of the one-family dwelling, but is at least 400 square feet in floor area.

**Family:** Any number of individuals related by blood, marriage, or adoption, living together as a single housekeeping unit, provided that a group of not more than five persons keeping house together, but not necessarily related by blood or marriage, may be considered a family.

**Family Child Care Home:** A home or facility where the owner or operator is to be licensed or registered by the state for child care. A family child care home provides day care services only; there is to be no residential or overnight care provided.

**Hotel:** A building providing lodging for persons with or without meals, and intended for the accommodation of transients, and so designed that normal access and egress are controlled from a central point. A hotel is not a dwelling.

**Lot:** A plot or parcel of land occupied or capable of being occupied by one principal building and the accessory buildings or uses incidental to it, including such open spaces as are required by this Bylaw. In the case of multiple dwellings and public, institutional, commercial, industrial, or agricultural buildings, a group of buildings on the same or contiguous premises, all under the same ownership, may be considered as occupying the same lot.

**Lot, Corner:** A lot at the intersection of and abutting on two or more streets where the angle of intersection is not more than 135 degrees or where the intersection is rounded by a curve having a radius of less than one hundred feet.

**Lot, Interior:** A lot other than a corner lot or through lot.

**Lot, Line:** The established division line between lots or between a lot and a street.

**Lot Line, Front:** All dividing lines between a street and the lot shall be considered front lines.

**Lot Line, Rear:** The line or lines bounding a lot at the rear and approximately parallel to, and at the maximum distance from, the front lot line.

**Lot Line, Side:** The line or lines bounding a lot which extends from the street toward the rear in a direction approximately perpendicular to the street. In the case of corner lots, or through lots, all lines extending from streets shall be considered side lot lines.

**Lot, Minimum Width Of:** The distance between the side lot lines measured in a straight line at right angles to the mean direction of such side lot lines, which line of measurement shall touch but not be in front of the building line. In the case of a corner lot, the minimum width shall be similarly measured and, for the purpose of this measurement only, the front lot line which has the least dimension shall be considered the front lot line, and the lot lines adjacent thereto shall be considered as side lot lines.

**Lot, Through:** A lot other than a corner lot, which abuts two or more streets which do not intersect at the lot.

**Manufacturing:** Shall include fabricating, assembling, treating, processing, and similar operations performed on any materials permitted to be worked upon by the terms of this Bylaw.

**Manufacturing, Light:** A custom workshop where the manufacturing and/or assembly of small quantities of materials or goods is performed by tradesmen or craftsmen requiring manual, mechanical, or artistic skills.

**Mobile Home:** A prefabricated dwelling unit which is (1) designed for continuous residential occupancy with connection to a permanent water supply and sewage disposal system; and (2) is

designed to be moved on wheels, as a whole or in sections. In accordance with 24 VSA Section 4412, a mobile home shall be considered a single family dwelling and cannot be excluded from a zoning district except on the same terms and conditions as conventional housing is excluded.

**Mobile Home Park:** Any premises used or permitted to be used for parking of more than one occupied mobile home.

**Motel:** A building or group of buildings providing lodging for persons, intended primarily for the accommodation of transients, having a private outside entrance for each room or suite of rooms, and for each of which rooms or suites of rooms automobile parking is provided on the premises. A motel is not a dwelling.

**Noncomplying Structure:** A structure or part thereof lawfully in existence on the effective date of these regulations, but not in compliance with the provisions of these regulations, including but not limited to building size, location, height, setback, area, yards, density, or off-street parking or loading requirements, where such structure complied with all applicable laws, ordinances, and regulations prior to the enactment of these regulations.

**Nonconforming Use:** A use of land, building, or premises which is not a use permitted by the provisions of this Bylaw for the district in which such land, building, or premises are situated, but which was legally existing at the effective date hereof, or of any pertinent amendment hereto.

**Open Space:** The area of a lot that is not occupied by buildings, other roofed structures, or parking lots.

**Professional Office:** A room, suite of rooms or building principally used for conducting the affairs of a business, profession, or service industry. This definition specifically excludes on-premise retail sales.

**Public Sewer:** A system of sanitary sewers owned and operated by a municipality or other governmental unit.

**Public Water Supply:** A system of water supply owned and operated by a municipality or other governmental unit, or by a corporation authorized and regulated by the state of Vermont for purposes of public water supply.

**Restaurant:** An establishment that serves food and beverages to persons seated primarily within the principal building. This definition includes taverns, bars, cafes, tea rooms, and outdoor cafes. It also may include take-out service, but does not include service delivered to customers who are in motor vehicles.

**Stream:** Any surface water course in the Village of North Bennington depicted on US Geological Survey topographic maps or identified through site investigation, but excluding mill ponds formed by impoundments along Paran Creek.

**Street:** A municipal or state highway or other right-of-way approved by the Development Review Board. The word “street” shall mean the entire right-of-way. If a boundary of the right-



of-way has not been defined in a legal deed accepted by the Village, or has not been surveyed and so recorded, and is not marked by a fence line or other physical feature, the boundary shall be deemed to be 25 feet from the center line of the traveled way. A new or proposed subdivision street shall adhere to construction requirements (Design Standards for local roads) as defined by the Vermont Agency of Transportation.

**Street Line:** The line dividing the street and the lot.

**Structure:** An assembly of materials on the land for occupancy or use, including but not limited to a building, mobile home or trailer, sign, wall, or fence.

**Travel Trailer:** A vehicle intended or used primarily for recreational travel purposes which rests on its own wheels, a truck or camper body, or is towed by a motor vehicle. This definition includes recreation vehicles, tent trailers, and any other motor vehicle not exceeding 30 feet in length whose body has been equipped for occupancy for recreational purposes, but specifically excludes mobile homes.

**Use:** (1) The purpose for which a building, structure, or parcel of land is designed, intended, or occupied or used; (2) any activity carried out upon any premises or within any structure upon a premises.

**Wetlands:** Those areas of the Village which are inundated by surface or ground water with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands shall include, but may not be limited to, wetlands shown on the most recent Vermont Significant Wetlands Inventory maps or the National Wetlands Inventory maps which are classified as, or contiguous to, Class One or Class Two wetlands.

**Yard, Front:** An open space between the building and the front lot line, extending the full length of the lot, or in the case of a corner lot, extending along all streets.

**Yard, Required:** So much of the front, rear, or side yard, as required by the applicable provisions of this Bylaw.

**Yard, Rear:** An open space between the building and the rear lot line, extending the full length of the lot.

**Yard, Side:** An open space between the building and a side lot line, extending the full length of the lot.

**Yard, Depth or Width:** The depth of front and rear yards, and the width of side yards, shall be measured perpendicularly to the respective lot lines.

## **SECTION 2: DISTRICTS**

### **2.1 Classes of Districts**

For the purposes of this Bylaw, the Village of North Bennington is divided into the following zoning districts as described in Sections 4 through 11 of this Bylaw and as depicted on the official zoning map:

Village Residential (VR) Districts	<u>Overlay Districts:</u>
Village Commercial (VC) District	
Industrial (I) District	Historic (H) District Overlay
Village Residential-Professional (VRP) District	Shoreland Protection Area
Educational Campus (EC) District	Flood Hazard Area

### **2.2 Official Zoning Map**

The location and boundaries of said zoning districts are established as shown on the official “North Bennington, Vermont Zoning Map” which shall be on file in the office of the Zoning Administrator, and said map and all explanatory matter thereon are hereby incorporated by reference as part of this Bylaw. No changes of any nature shall be made to the official zoning map except in conformance with zoning amendment procedures and requirements set forth in 24 VSA Sections 4441 to 4444. Notwithstanding the above, the exact boundary of the flood hazard area depicted on the zoning map is determined by reference to the most current flood insurance maps prepared by the Federal Emergency Management Agency (see Section 10.1).

### **2.3 Zoning Map Interpretation**

Where uncertainty exists as to the location of a district boundary shown on the official zoning map, the following rules shall apply:

1. Boundaries which appear to follow streets, railroads, or rivers and streams shall coincide with the center line thereof. Boundaries of lakes or ponds at mean water level shall follow shore lines.
2. Boundaries which appear to follow a property or lot line shall be construed to follow such property or lot lines.
3. Boundaries which appear to run parallel to the side lines of streets or railroads, or parallel to shore lines, shall be regarded as parallel to such lines. Distances not specifically indicated shall be determined from the scale of the map.
4. In the case of lots lying in more than one district, the provisions of any district may be applied for a distance of not over thirty feet into any other adjacent district.
5. When the Administrative Officer cannot definitely determine the location of a district boundary by the scale or dimensions given on the official zoning map or by the above rules, the Planning Commission may be consulted prior to making the final determination. Any determination by the Administrative Officer regarding the location of a district boundary may be appealed to the Development Review Board. In the case of a boundary question involving the flood hazard area, refer to Section 10 of these bylaws.

## **SECTION 3: GENERAL REGULATIONS**

### **3.1 Compliance with Bylaws**

1. Except as otherwise provided herein, any use not specifically permitted shall be deemed to be prohibited.
2. No land, building, or premises, or part thereof, shall be used, and no building, structure, or part thereof shall be constructed, reconstructed, extended, enlarged, moved, or altered, except in conformity with this Bylaw. No lot shall have an area, width, or a front, side, or rear yard less than that set forth in the applicable section of this Bylaw.
3. Except as otherwise specifically provided by this Bylaw, any permitted building or permitted use may be located in that portion of the lot not contained in any required front, side, or rear yard.
4. No lot shall be diminished, nor shall any yard or required open space be reduced except in conformity with this Bylaw.
5. Nothing in this Bylaw shall require any changes in the plans, construction, or designated use of a building complying with local laws in force prior to this Bylaw, if a prior permit shall have been duly issued and the entire building shall have been completed in accordance with such plans within one year from the effective date of this Bylaw.

### **3.2 Frontage and Access**

No land development may be permitted on lots which have a frontage of less than 50 feet on a public street. However, with approval of the Development Review Board, land development may be permitted on a lot otherwise conforming with this Bylaw having access to a public street by a permanent easement or right-of-way not less than 20 feet wide for a one-family dwelling or not less than 50 feet wide for all other uses.

### **3.3 Changes of Use**

The conversion of change in use of land, existing buildings, or other structures to another use is subject to the provisions of this Bylaw as follows:

1. The proposed use shall be subject to all the requirements of these regulations pertaining to such use, including but not limited to district, access, and/or parking requirements, as well as any other applicable municipal, state or federal regulations currently in effect.
2. An accessory structure such as a garage or barn may be converted to a principal use allowed within the district in which it is located only if the structure meets the lot size, setback, parking, and other requirements applicable to the proposed use.
3. Changes or conversions involving nonconforming uses and/or noncomplying structures also are subject to and will be reviewed under Section 3.7.

### **3.4 Equal Treatment of Housing**

Except as provided in the Vermont Planning and Development Act, nothing herein shall have the effect of excluding:

1. Mobile homes, modular housing, or other forms of prefabricated housing from the Village, except upon the same terms and conditions as conventional housing is excluded;
2. The establishment of a mobile home park in a district designated for such use;
3. Accessory dwelling units subject to the standards set forth in Section 12.9;
4. Low and moderate income housing.

### **3.5 Existing Small Lots**

Any lot in individual and separate, nonaffiliated ownership from surrounding properties, lawfully in existence as of the effective date of these regulations, may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth acre in area with a minimum width or depth dimension of forty feet, and all other applicable requirements of these regulations are met.

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 the purposes of these regulations. However such lot shall not be deemed merged and may be separately conveyed if:

- (1) The lots are conveyed in the preexisting, nonconforming configuration, and
- (2) On the effective date of these regulations each lot had been developed with a water supply and wastewater disposal system, and
- (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 in case a wastewater system fails.

### **3.6 Height of Structures**

No structure in any district shall exceed the maximum height specified for that district, but this limit shall not apply to spires, cupolas, or similar architectural features of a building occupying in the aggregate not more than 10 percent of the area of such building, nor to residential chimneys, farm silos, municipal water storage tanks, radio or television aerials (excluding telecommunications facilities but including satellite dishes less than 18 inches in diameter providing such dishes are not mounted on a tower), electrical transmission towers, windmills, solar collectors, or similar structures. Flagpole heights are limited to the height of the building(s) located on the lot on which the flagpole is located.

### **3.7 Noncomplying Structures and Nonconforming Uses**

(A) Noncomplying Structures: Any structure lawfully in existence as of the effective date of these regulations, which is not in compliance with the provisions of these regulations regarding lot size, density, height, setbacks, or other dimensional requirements for the district in which it is located, or any other requirement of these regulations, shall be considered a noncomplying structure. A noncomplying structure may be continued indefinitely, but shall be subject to the following provisions:

1. A noncomplying structure may undergo normal maintenance and repair without a permit provided that such maintenance and repair does not result in an enlargement or alteration that would increase the degree of noncompliance, except in accordance with subsection (4).
2. A noncomplying structure shall not be moved, enlarged, or substantially altered unless the relocation, enlargement, or alteration complies with all the regulations, including use regulations, for the district in which it is located.
3. A noncomplying structure may be repaired, restored, or reconstructed after damage from any cause, provided that the repair, restoration, or reconstruction occurs within one year after such damage occurred and does not increase the degree of noncompliance which existed prior to the damage.
4. Nothing in these regulations shall prohibit the projection of not more than three (3) feet into required yard or setback areas of pilaster, columns, belt courses, sills, cornices, or other similar architectural features, nor the planting or landscaping of such open spaces.

(B) Nonconforming Uses: Any use of a structure or land lawfully in existence as of the effective date of these regulations, which does not conform to the uses allowed for the zoning district in which it is located, shall be considered a nonconforming use. Nonconforming uses may be continued indefinitely, but are subject to the following provisions:

1. No nonconforming use may be changed, except to a conforming use.
2. No nonconforming use shall, if once changed into a conforming use, be changed back again into a nonconforming use.
3. No nonconforming use, which has been abandoned for six months, shall be resumed thereafter. No nonconforming use, which has been discontinued for twelve months, shall be resumed thereafter, unless within twelve months after discontinuance of the nonconforming use, the Development Review Board grants an extension of the time within which the use may be resumed. The Development Review Board may grant up to a 12 month extension of the time within which a nonconforming use may be resumed, if the Board finds that all of the following are true: a) the property has been and continues to be actively marketed for sale or lease, b) the property is being regularly maintained and is in good condition, and c) there is a reasonable likelihood that the nonconforming use will be resumed. The Board may grant additional extensions of the time within which a nonconforming use may be resumed (in up to 12 month increments), provided the criteria set forth in this subsection are met for each such extension.
4. No nonconforming use shall be extended or expanded, except with the approval of the Development Review Board, and the Board finds that such extension or expansion will have no adverse effect upon the public health, safety, convenience, and upon property values in the vicinity. In addition, any expansion or extension must meet the most restrictive standards and requirements for those districts in which such use is an allowed use. In no event shall a nonconforming use be expanded beyond the boundaries of the lot on which the nonconforming use originated.
5. No new nonconforming use shall be created under the variance provisions or any other provision of these regulations.

### **3.8 Paved Areas**

All driveways, parking areas, walks, ramps, stairs/steps, patios, terraces, or courtyards of any type of paving material other than natural and organic vegetation or ground cover, and including curbing or edging, and installed at the natural-finish grade, shall maintain a minimum setback requirement of five (5) feet from the front, side, and rear lot lines. Front yard walks parallel to the street line, and access walks and driveways providing direct access to a building or parking lot, may be constructed to the lot line.

### **3.9 Screening and Fencing**

1. Shrubbery, trees, hedges, raised planters or planning beds, or similar vegetation installed specifically for screening or fencing uses, fences, walls (including retaining walls), all exceeding two feet and less than eight feet in height, shall maintain a minimum setback requirement of five feet from side and rear lot lines.
2. Screening and fencing, as described in subsection (1), installed on lots fronting on streets with sidewalks or pathways shall be allowed adjacent to said sidewalks or pathways provided the screening or fencing is properly maintained and does not interfere or create a nuisance or hazardous condition to pedestrian traffic or to sidewalk or pathway construction and maintenance.
3. Screening fencing, as described in subsection (1), installed on lots fronting on streets without sidewalks or pathways shall not be allowed within the yard area between the paved surface of the street and eight feet onto the lot in question.
4. No sign, fence, wall, tree, hedge, or similar vegetation or structure more than two feet in height shall be placed so as to interfere with visibility of motorists, bicyclists, or pedestrians on streets or on intersecting driveways, sidewalks, or pathways.

### **3.10 Inoperative Motor Vehicles, Scrap and Waste Material**

No inoperable motor vehicle may be stored on any lot for a period in excess of 30 days except in a building. Inoperable means any of the following: unregistered, used for salvage, or un-inspected. This section shall not pertain to commercial uses for car sales, auto body or vehicle repair shops, where permitted by this Bylaw.

No scrap or waste material not originating on the premises may be stored or disposed of on any lot, except at a municipal solid waste disposal area. No scrap or waste material originating on the premises may be stored on any lot except that a 30 day period shall be allowed for removal of scrap or waste material resulting from a construction operation, or from fire, flood, or similar emergency. Refer also to provisions of the applicable Village Ordinances.

### **3.11 Dwelling Units on Lot**

Every one-family or two-family dwelling unit shall be located on an individual lot unless otherwise provided for in this Bylaw or otherwise approved by the Development Review Board as part of a planned unit development.

### **3.12 Exterior Lighting**

To ensure appropriate lighting while minimizing its undesirable effects, the following general standards apply to outdoor lighting in North Bennington, with the exception of temporary holiday lighting which is exempt:

1. Outdoor lighting fixtures shall be limited to recessed, shielded, or cutoff fixtures.
2. All outdoor lighting shall be kept to the minimum required for safety, security, and intended use, consistent with the character of the neighborhood and zoning district in which it is located. The Outdoor Lighting Manual for Vermont Municipalities may be consulted when determining appropriate lighting levels.
3. Outdoor lighting fixtures should include timers, dimmers, and/or sensors to reduce energy consumption and eliminate unneeded lighting.
4. Electrical service to outdoor lighting fixtures shall be buried.
5. Security lighting, where deemed necessary by the Development Review Board, shall be shielded and aimed so that illumination is directed only onto the designated area and is not cast on other areas.
6. Outdoor lighting fixtures shall only be illuminated during the hours of operation for non-residential uses unless specially approved by the Development Review Board.

### **3.13 Conditional Use Regulations**

A conditional use may be approved by the Development Review Board only after a public hearing, provided the Board shall have found that such use is in conformance with other provisions of plans, ordinances, regulations, and Bylaws of the Village, and will conform with the following general and specific standards:

1. The proposed use shall not adversely affect the character of the area, as defined by the purpose of the zoning district in which the project is located and relevant policies and standards of the Village Plan, as well as the following performance standards:
  - a. Air Quality: The proposed use will not have an undue adverse affect on ambient air quality. Consideration shall be given to types and quantities of air emissions, including odors, fumes, gasses, dust, smoke, and other particulate emissions, and measures shall be taken to ensure that construction activities do not degrade off-site air quality.
  - b. Noise Level: Noise levels of the proposed use shall not exceed 70 decibels at the property line and vibration levels at the property line shall not be discernable without the aid of instruments.
  - c. Soil and Water Resources: Measures shall be taken to ensure that the proposed use does not adversely affect surface or subsurface water resources, including flood plains, wetlands, streams, ponds, and ground water. Particluar attention shall be paid to proper storage, treatment, and disposal of waste products and storm water runoff, as well as proper installation and maintenance of above ground and under ground storage tanks, and to the use, storage, transportation,

treatment, and disposal of hazardous materials. Measures shall be taken to prevent soil erosion during and after construction.

- d. Natural Landscape: The natural landscape and terrain shall be preserved to the greatest extent possible. Consideration shall be given to retention of natural vegetation, use of appropriate landscaping, and to protection of biological, geological, and hydrological resources on the site and on adjacent properties.
  - e. Aesthetic Characteristics: Visual impacts associated with the siting of buildings, paved areas, open spaces, landscaping, and accessory site structures and lighting shall be reviewed. Proposed buildings and other structures shall be related harmoniously to the terrain and to existing buildings in the vicinity that have a function or visual relationship to the site being developed. Consideration shall be given to the compatibility and preservation of prevailing types of architecture and historic sites.
2. The proposed use shall not adversely affect the capacity of existing or planned community facilities including the following performance standards:
- a. Water Resources: Consideration shall be given to the short and long term adequacy of water resources to serve the proposed use. The proposed use shall not adversely impact any existing water supply source, system, or facility. A written statement shall be obtained from the Water Department for any use making use of the municipal water system, indicating whether the proposed use can be adequately served and that there will be sufficient water supply and pressure for personal/business, and fire fighting use.
  - b. Sanitary and Solid Waste: Sanitary/sewage and solid waste generation, treatment, storage, collection, transporting, and disposal for proposed uses shall comply with all applicable municipal, state, and federal regulations. Debris and waste resulting from construction and site development shall be disposed of properly. Consideration shall be given to the prevention of health hazards, unsanitary conditions, water and soil contamination, and the adequacy of storage, treatment, and disposal facilities. Any hazardous waste materials that may be generated shall be identified and methods of storage, treatment, transportation, and disposal documented. Waste reduction, recycling, and reuse shall be encouraged.
  - c. Storm Water: Storm water management shall comply with applicable state standards, and shall not lead to adverse impacts on the municipal drainage system, surface or ground water, or any other property in the area.
  - d. Energy Resources: The visual impact of utility poles, lines, and other equipment shall be minimized to the extent possible. Energy conservation and utilization of renewable energy resources are encouraged.
  - e. Educational Services: The proposed use shall not have an adverse impact on local public or private schools. An estimate of the number of students that will be added to the school population may be required.
  - f. Other Municipal Services: The development will ensure that public services such as police and fire protection, emergency rescue, public transportation, and road maintenance are not hindered and can safely access the site.



3. The proposed use shall not adversely affect traffic on roads and highways in the vicinity of the development.
  - a. Traffic Congestion and Safety: The proposed use shall not cause unreasonable congestion or unsafe conditions on public or private roadways. Consideration shall be given to design of streets, driveways, sidewalks, bike paths, intersections, pedestrian crossings, and parking and loading facilities. Estimates of vehicle trip generation and turning movements may be required to assist in the evaluation of impacts.
  - b. Access Management: Site planning shall utilize appropriate access management techniques to maintain safe and efficient vehicle and pedestrian movements. Such techniques may include:
    - Limiting the number, width, spacing, and alignment of curb cuts (which may involve closing or relocating existing curb cuts);
    - Requiring connections between adjacent lots for both vehicles and pedestrians;
    - Restricting parking to the side or rear of buildings;
    - Constructing sidewalks from the public right-of-way to storefronts;
    - Providing safe access routes for bicycles and racks for bicycle storage;
    - Requiring submission of master plans to account for future parking and access needs;
    - Requiring access drives to intersect existing side roads or new subdivision or service roads;
    - Planning for roadway connections between adjacent developments and discouraging dead-end roads.

In granting a conditional use, the Development Review Board may attach such reasonable conditions and safeguards as it deems necessary to implement the purposes of this Bylaw and the zoning district in which the development is located. The Development Review Board shall act to approve or disapprove any requested conditional use within 45 days after the date of adjournment of the final public hearing held on the application.

### **3.14 Site Development Plan Application, Review, and Approval**

The Development Review Board shall review and approve Site Development Plans and Applications as prerequisite to the approval of the following uses:

1. Such uses that are subject to Site Development Plan Review under Sections 4 through 11 of this Bylaw.
2. Such uses that are subject to Conditional Use Approval in all zoning districts.
3. Any subdivision of properties.

In reviewing site development plans, the Development Review Board may impose appropriate conditions and safeguards with respect to the adequacy of parking, traffic access, and circulation for pedestrians and vehicles, landscaping and screening, the protection of the utilization of renewable energy resources, exterior lighting, the size, location and design of signs, and other

matters specified in these Bylaws, including applicable performance standards identified in Section 3.13 of these Bylaws.

The Development Review Board shall act to approve, approve with conditions, or disapprove any such application for site plan review within 45 days of the adjournment of the public hearing.

1. Application Requirements:

The Zoning Administrator shall determine that a complete application consisting of the following materials has been submitted prior to accepting the application for consideration by the Development Review Board:

- Completed application form;
- Description of the proposed project;
- Site plan as prescribed below;
- Any additional information deemed necessary to allow for a complete review by the Development Review Board.

Site Plan Requirements:

- a. Name and address of the owner(s) of record of the property; name, address, and interest of the applicant, if different than the owner(s) of record; name and address of the person or firm preparing the application and plans; date of the application and related plans; proof of notification of all owners of adjoining lands.
- b. A plan drawn to scale prepared by a licensed engineer, surveyor, land planner, or as otherwise approved by the Development Review Board showing the following:
  - i. North arrow and scale;
  - ii. Legal property boundaries for the property;
  - iii. Existing and proposed features, to include land use, lot size, existing vegetation, natural areas and critical habitat, streams, ponds, floodplains and wetlands; zoning district boundaries; abutting property owners; topography (existing and proposed); structures (building footprints), signs, walls, and fences; fuel tanks; outdoor storage or location of materials, equipment, supplies; waste disposal facilities; historic sites; roads, driveways, easements and rights-of-way, utilities; and buildings located within setbacks on adjacent lots;
  - iv. Traffic and pedestrian circulation within the site; location and dimension of parking, loading, and snow retention areas; access to neighboring properties and public roads; and sidewalks, pathways, and trails in the vicinity;
- c. Site location map showing the location of the project in relation to nearby town highways, adjoining parcels and uses, and zoning district boundaries.
- d. Proposed landscaping and screening plan, including plant details (size, location, species).
- e. Grading and drainage plan, including provisions for storm water management.
- f. Description of proposed water supply and wastewater disposal.

- g. Proposed lighting plan, including the design and location of all exterior lighting.
- h. Phasing schedule for completion of all proposed development and site improvements.
- i. Estimate of traffic to be generated and impact of such traffic on area roads.
- j. Statement of compliance with all applicable zoning district standards.
- k. All necessary approvals for water, sewer, and roadway access or connection.

Additional information that may be requested to allow for a complete review of the application may include, but is not limited to:

- a. Preliminary building elevations for new or altered structures, including an indication of the exterior façade design, window treatment, and roof and siding material.
- b. Forest management, tree removal, and vegetation management plan.
- c. Storm water management and erosion control plans.
- d. Traffic impact analysis (current and proposed traffic volumes, capacities, levels of service, and proposed improvements).
- e. Community service impact assessments.
- f. Open space management plan.
- g. Site reclamation plan (for any project involving extraction of earth resources).
- h. Habitat impact assessment (identification of critical wildlife habitat, including wildlife travel corridors, analysis of potential impact and proposed mitigation measures).

## **SECTION 4: VILLAGE RESIDENTIAL (VR) DISTRICTS**

**Purpose:** Village Residential Districts are intended to provide for development of a variety of housing types, densities, and cost levels. The regulations recognize that compact development generally requires the provision of public water supply and sewer systems, as well as additional street improvements such as curbs, gutters, storm sewers, sidewalks, and street lighting. These regulations are intended to provide for this compact urban or village type development in areas where such utilities and improvements may be efficiently and economically installed and maintained, while insuring in other areas a density of development which will permit the permanent use of private on-site water supply and sewage disposal, and greater economy in other improvements. These regulations also are intended to prevent a development pattern characterized by sprawl, and to maintain and enhance the scenic, historic, and environmental qualities of the Village of North Bennington.

### **4.1 Permitted Uses in VR Districts**

1. One-family and Two-family dwellings
2. Accessory Dwelling Units, as provided for in Section 12.9
3. A state licensed or registered residential care home or group home, serving not more than eight persons who are developmentally disabled or physically handicapped, except that such homes shall be located not less than 1,000 feet from another such home. Site plan review required.
4. Pursuant to 24 VSA Section 4413(5), a state licensed or registered family child care home serving six or fewer children shall be considered to constitute a permitted one-family residential use of property. A family child care home serving no more than six full-time and four part-time children (as defined in 33 VSA Section 4902(3)(A)) also shall be permitted, but shall require site plan review by the Development Review Board.
5. Agricultural uses and practices as defined by the Secretary of Agriculture, Food, and Markets.
6. Accepted silvicultural practices as defined by the Commission of Forests, Parks and Recreation.
7. Customary home occupations conforming to the following criteria:
  - a. Customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; and
  - b. Customarily practiced in the community at home; and
  - c. Carried on by a member of the family residing in the dwelling unit; and
  - d. Clearly incidental and secondary to the use of the dwelling unit for residential purposes; and
  - e. Conforms to the following additional conditions:

- i. the occupation or profession is carried on wholly within the building or structure;
- ii. not more than two persons outside the family are working on the premises in the home occupation at any point in time;
- iii. there is no exterior display or exterior sign except one unlighted identification sign, not more than two square feet in area, no exterior storage of materials, and no other exterior indication of a home occupation or variation from the residential character of the principal building;
- iv. no offensive noise, vibrations, smoke, dust, odors, heat, light, or glare are produced;
- v. there are no retail sales, unless the items sold are the product of the owner's own labor, or are incidental to the products of the owner's own labor, or are antiques;
- vi. the customary home occupation does not affect the residential character of the neighborhood;
- vii. traffic and parking must satisfy zoning Bylaw requirements;
- viii. utilize an area not to exceed 40% of the floor area of the principal dwelling unit on the property up to a maximum of 1,500 square feet; a home occupation may be in a dwelling unit or an accessory building.

In particular, a home occupation includes, but is not limited to, the following: antique shops, dress making, home cooking, teaching, and the skilled practice of an accountant, architect, artist, dentist, photographer, doctor, engineer, insurance agent, lawyer, musician, realtor, barber or beautician, or any other profession or skilled practice carried on within the dwelling occupied by the practitioner. Instructional classes shall be limited to classes in connection with the manufacturing or production of products on the premises or to classes for specific dance, theatrical, gymnastics, exercise, or similar uses.

However, a home occupation shall not be interpreted to include the following: commercial stables and kennels, restaurants, garages, or shops for repair of motor vehicles.

Site plan review of any customary home occupation by the Development Review Board is required.

- 8. Temporary and seasonal roadside stands for sale of produce primarily from the land where the stand is to be located, provided that:
  - a. The stand shall remain in place and operation for a period not exceeding four months per year. The stand will be dismantled and stored away from public view after the end of the season of operation.
  - b. The use will not create a nuisance or alter the essential residential character of the property or the surrounding area.
  - c. The stand shall not be erected within the established front yard areas and shall be set back at least 20 feet from all side and rear property lines.
  - d. Produce may not be displayed within 20 feet of any property line. All displays shall be dismantled and removed daily from public view.

- e. Temporary signs must be installed on the property and must be removed daily from public view. Signs also are subject to review under the Village Sign Ordinance and shall be installed so as not to create a hazardous vehicle or pedestrian condition.
- f. Adequate off-street parking shall be provided so as not to create a hazardous vehicle or pedestrian traffic condition.
- g. The use shall not be construed to permit the operation of permanent commercial establishments or for shipping or selling of agricultural products of origination off the property.
- h. Any relevant Department of Health regulations are met.

Site plan review of any roadside stand by the Development Review Board is required.

9. Accessory uses and buildings customarily incidental to a permitted use. Uses and buildings customarily incidental to a conditional use are permitted as an accessory to an existing or permitted conditional use.
10. Garage, yard, or tag sales conducted outdoors without permanent structures by the resident of the premises and clearly as an accessory use on a residential site, provided that:
  - a. Merchandise shall be limited to items of personal property such as antiques, furniture, handicrafts, household goods, toys, or clothing.
  - b. Such sales may occur on no more than four occasions in any calendar year, each occasion lasting no more than 36 hours.
  - c. Merchandise may be displayed within the front yard, but all merchandise shall be removed from public view at the end of the event.
  - d. No heavy equipment, large machinery or tools, motor vehicles or trailers, or materials associated with the residents' place of business shall be sold.
  - e. Parking shall be controlled in a manner that will not create a hazardous condition for vehicles or pedestrians.
  - f. Temporary signs are restricted to the lot where the sale is occurring, shall be displayed only during the sale, and shall not create a hazardous condition for vehicles or pedestrians.
11. The parking or keeping of one truck or commercial vehicle on property used for residential purposes provided said vehicle:
  - a. Does not exceed manufacturer's rating of  $\frac{3}{4}$  ton capacity.
  - b. Is used as a means of transport to and from the resident's place of business.
  - c. Is not loaded with flammable, noxious, or dangerous materials.
  - d. Is parked or kept in proper off-street parking facilities located on the resident's property.
12. Parking or keeping equipment or vehicles accessory to a construction operation on construction sites for a period not to extend beyond the time of the construction contract and which does not create a nuisance to surrounding properties or create a hazardous condition for vehicles or pedestrians.

13. The division of a parcel of land into two or more lots for the purpose of sale, lease, or development, provided the lots conform to all dimensional and access requirements for the district(s) in which they are located. Site plan review required.

#### **4.2 Conditional Uses Permitted in VR Districts**

1. Municipal facilities and any use or facility for conservation of natural resources, preservation of historic sites, or for park or recreational purposes, library, museum, or similar public use operated by a governmental unit or non-profit organization or community association.
2. Pursuant to 24 VSA Section 4413(5), a state licensed or registered family child care home serving in excess of six full-time and four part-time children.
3. State licensed or registered day care, day camp, after school, or summer programs, Head Start programs, or other child care establishments whose primary function is the protection, care, and supervision of children under 16 years of age outside their homes for periods of less than 24 hours a day by a person other than a child's own parent, guardian, or relative. This subsection does not include state licensed residential child care-group homes that provide planned programs for behavioral change by qualified staff in 24 hour residential settings.
4. State licensed or registered bed and breakfasts, inns, rooming houses, or other lodging establishments that provide overnight accommodations to the traveling public, provided that the establishment is owned and operated by the resident family, contains no more than six double occupancy rooms within the dwelling and/or in an accessory structure located on the same lot, and that cooking and eating facilities are not provided for individual units.
5. Sewer or water pumping station, stand pipe, water tank, reservoir, broadcasting and communication towers and antennas, commercial wind energy towers, and commercial fuel storage tanks.
6. Conversion of an existing dwelling not less than 25 years old, which may have additions not less than 10 years old, to a multi-family dwelling having a lot area requirement of not less than 5,000 square feet per dwelling unit, provided the following criteria are met:
  - a. There shall be no exterior expansion or addition to the structure.
  - b. Adequate and safe provision is made for vehicle access, circulation, and parking.
  - c. All land not occupied for vehicular use or buildings shall be adequately landscaped and not encroached upon.
  - d. The building shall be connected to public water and sewer.
  - e. Conversion shall be accomplished so as to maintain, in outward appearance, the essential character of the neighborhood.
  - f. Each dwelling unit shall not contain less than 600 square feet of livable floor area.
  - g. All other dimensional requirements applicable to the district in which the property

is located shall apply.

7. Multi-family dwellings in accordance with other applicable provisions of this Bylaw, and further provided that:
  - a. Unless otherwise approved by the Development Review Board, multi-family dwelling structures shall occupy a separate lot conforming to the dimensional requirements for the district in which it is located.
  - b. No multi-family dwelling shall contain more than six dwelling units, and the distances between buildings shall not be less than 50 feet.
  - c. The Development Review Board may require a landscaped buffer of up to 50 feet around the property's perimeter.
8. Accessory Dwelling Units as provided for in Section 12.9
9. A Mobile Home Park – in the VR-3 District only – conforming to the following standards:
  - a. Site: A mobile home park shall be located on a lot containing not less than 2 acres. The site shall be planned as a unit and shall be well drained and with soil and land conditions suitable, in the judgment of the Development Review Board, for the purpose intended.
  - b. Site Development Plan: No mobile home park shall be developed, and no mobile home shall be placed thereon until a site development plan shall have been approved by the Development Review Board. Such plan shall show the boundaries of the lot, distances to nearest intersecting public streets, existing buildings, including buildings on adjoining lots within 100 feet from the boundaries of the mobile home park, proposed vehicular and pedestrian circulation, parking spaces, sites for all mobile homes, open spaces, landscape details, existing and proposed grades, water supply, fire protection, sewage disposal, and storm drainage, together with any other information which the Development Review Board may require.
  - c. Design Standards:
    - i. The maximum number of mobile homes in a mobile home park shall not exceed ten per acre of lot area.
    - ii. Each individual mobile home shall be located on a lot containing not less than 3,000 square feet and not less than 45 feet wide. No mobile home shall be located within 10 feet from the boundary of its individual lot, and no mobile home shall be located within 50 feet from any boundary of the mobile home park lot.
    - iii. Each mobile home space shall abut an interior road not less than 22 feet in width. Such road shall have at least two connections for vehicular travel to and from a public street or streets, located so as to minimize traffic hazards and congestion.
    - iv. Parking of any motor vehicle in any part of the 22 foot width of an interior road shall be prohibited, and enforced by the park operator. Parking spaces shall be provided for all vehicles customarily or occasionally in the park, but in no case shall less than three car spaces for each two mobile



home sites be required. Such car spaces shall average 9 feet wide and 18 feet long with free access to the interior road. Such car spaces shall be on the mobile home lot, in a parking lot, or may be in parking bays contiguous to an interior road, in which case the width of the road and parking space combined shall be not less than 45 feet.

- v. All roads shall be adequately lighted.
  - vi. A landscaped buffer strip shall be provided along all property and street lines of the mobile home park, not less than 15 feet in width, suitably screened with evergreen plantings, as approved by the Development Review Board.
  - vii. All mobile homes shall be connected to public water and sewer.
- d. Improvements:
- i. All roads and parking areas shall be in conformance with municipal street standards.
  - ii. Waste collection stations shall be provided, as approved by the Development Review Board, located not more than 150 feet from each mobile home site. Waste collection stations shall consist of enclosures for rubbish and garbage containers, and shall be suitably landscaped.
  - iii. All roads and parking areas, storm drainage, water supply, and sanitary sewer connections to each mobile home site, all electric services, and all required landscaping shall be completed before any mobile home is placed in the mobile home park, except that where landscaping is not completed, the Development Review Board may approve occupancy if the owner of the park shall have filed with the Village Trustees a surety bond in form and amount approved by the Development Review Board to guarantee completion of the work.
- e. Operation:
- i. The operator of the mobile home park shall maintain all parts of the park in good condition and shall provide for collection and removal of waste and garbage at least twice every week.
  - ii. The owner of the mobile home park shall remove snow from all roads, and shall maintain safe conditions on all roads at all times.
  - iii. The sale of mobile homes other than those sited on an approved lot within the park or other vehicles in connection with the operation of a mobile home park is prohibited. No sale of merchandise and no service business shall be carried on within the lot occupied by a mobile home park, except that the Development Review Board may approve the establishment of a self-service laundry or similar service for use by occupants of the mobile home park only.
- f. Compliance and Penalty:
- Compliance with all of the provisions of this subsection, and the operation and maintenance of services and landscaping, shall be construed to be the requirements of lawful occupancy, and failure to comply shall be considered a violation of the Zoning Bylaw, and subject to the penalties provided by law.

### 4.3 Dimensional Requirements – VR Districts

District	Minimum Lot Area Per Dwelling Unit Or Principal Use	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Building Height	Maximum Building Coverage	Public Water/Sewer Requirement
VR-3	3,000 sq. feet	10 feet	10 feet	10 feet	30 feet	35%	Water and Sewer
VR-10	10,000 sq. feet	<del>25</del> 10 feet	<del>45</del> 10 feet	20 feet	30 feet	<del>25</del> 35%	Water and Sewer
VR-20	20,000 sq. feet	30 feet	15 feet	40 feet	30 feet	20%	Either Water or Sewer
VR-40	40,000 sq. feet	40 feet	25 feet	40 feet	30 feet	10%	No Requirement
VR-120	120,000 sq. feet	40 feet	25 feet	40 feet	30 feet	10%	No Requirement

- Any accessory building or structure attached to the principal building or dwelling shall be considered a part of the principal building or dwelling and shall be subject to all yard requirements applicable to the principal building or dwelling.
- Accessory buildings and structures shall conform to the same front yard requirements as a principal building, and to the following side and rear yard requirements:
  - For buildings or structures of 80 square feet or less in building area or for any type of grade level paving (including driveways, parking areas, walks, ramps, stairs/steps, patios, terraces, or courtyards utilizing any type of surfacing other than natural and organic vegetation): 5 feet.
  - For buildings or structures between 81 and 130 square feet or less:
    - In the VR-3 and VR-10 Districts: 10 feet
    - In the VR-20, VR-40, and VR-120 Districts: 15 feet.
  - Buildings or structures exceeding 130 square feet shall be subject to the front, side, and rear yard requirements applicable to the principal building.
- Refer to Appendix A: Historic District Design Standards -- Section 9.5, Residential Design Standards, for specific site and building design requirements for new construction, additions, and exterior alterations.

## **SECTION 5: VILLAGE COMMERCIAL (VC) DISTRICT**

**Purpose:** The Village Commercial District is intended to serve as the center of the community, supporting a mix of commercial, residential, and public uses that will enhance the quality of life for residents and provide for sound economic development.

### **5.1 Permitted Uses in the VC District**

1. One-family and Two-family dwellings
2. Accessory Dwelling Units, as provided for in Section 12.9
3. A state licensed or registered residential care home or group home, serving not more than eight persons who are developmentally disabled or physically handicapped, except that such homes shall be located not less than 1,000 feet from another such home. Site plan review required.
4. Pursuant to 24 VSA Section 4413(5), a state licensed or registered family child care home serving six or fewer children shall be considered to constitute a permitted on-family residential use of property. A family child care home serving no more than six full-time and four part-time children (as defined in 33 VSA Section 4902(3)(A)) also shall be permitted, but shall required site plan review by the Development Review Board.
5. Customary home occupations conforming to all of the criteria and conditions enumerated in Section 4.1.7 of this Bylaw. Site plan review required.
6. Garage, yard, or tag sales conducted outdoors without permanent structures by the resident of the premises and clearly as an accessory use on a residential site, provided that all of the criteria enumerated in Section 4.1.10 of this Bylaw.
7. The parking or keeping of one truck or commercial vehicle on property used for residential purposes, provide said vehicle:
  - a. Does not exceed manufacturer's rating of  $\frac{3}{4}$  ton capacity.
  - b. Is used as a means of transport to and from the resident's place of business.
  - c. Is not loaded with flammable, noxious, or dangerous materials.
  - d. Is parked or kept in proper off-street parking facilities on the resident's property.
8. Parking or keeping vehicles accessory to a construction operation on construction sites for a period not to extend beyond the time of the construction contract and which does not create a nuisance to surrounding properties or create a hazardous condition for vehicles or pedestrians.
9. The division of land into two or more lots for the purpose of sale, lease, or development, provided the lots conform to all dimensional and access requirements for the district(s) in which they are located. Site plan review required.

10. Artist Studio and Gallery. Site plan review required.
11. Medical Clinic. Site plan review required.
12. Financial Institution. Site plan review required.
13. Post Office. Site plan review required.
14. Professional Office. Site plan review required.
15. Restaurant. Site plan review required.
16. Retail Establishment. Site plan review required.
17. Theater. Site plan review required.
18. Light Manufacturing. Site plan review required.
19. Municipal facilities and any use or facility for conservation of natural resources, preservation of historic sites, or for park or recreation purposes, library, museum, or similar public use operated by a governmental unit or non-profit organization or community association. Site plan review required.
20. State licensed or registered bed and breakfasts, inns, rooming houses, or other lodging establishments that provide overnight accommodations to the traveling public, provided that the establishment is owned and operated by a resident family, contains no more than six double occupancy rooms within the dwelling and/or in an accessory structure located on the same lot, and that cooking and eating facilities are not provided for individual units. Site plan review required.
21. Accessory uses and building customarily incidental to a permitted use. Uses and buildings customarily incidental to a conditional use are permitted as an accessory to an existing or permitted conditional use.

## **5.2 Conditional Uses Permitted in the VC District**

1. Pursuant to 24 VSA Section 4413(5), a state licensed or registered family child care home serving in excess of six full-time and four part-time children.
2. Conversion of an existing dwelling not less than 25 years old, which may have additions not less than 10 years old, to a multi-family dwelling having a lot area requirement of not less than 5,000 square feet per dwelling unit, provided the following criteria are met:
  - a. There shall be no exterior expansion or addition to the structure.
  - b. Adequate and safe provision is made for vehicle access, circulation, and parking.
  - c. All land not occupied for vehicular use or buildings shall be adequately landscaped and not encroached upon.

- d. The building shall be connected to public water and sewer.
  - e. Conversion shall be accomplished so as to maintain, in outward appearance, the essential character of the neighborhood.
  - f. Each dwelling unit shall not contain less than 600 square feet of livable floor area.
  - g. All other dimensional requirements applicable to the district in which the property is located shall apply.
3. Multi-family dwellings in accordance with other applicable provisions of this Bylaw, and further provided that:
- a. Unless otherwise approved by the Development Review Board, multi-family dwelling structures shall occupy a separate lot conforming to the dimensional requirements for the district in which it is located.
  - b. No multi-family dwelling shall contain more than six dwelling units, and the distances between buildings shall not be less than 50 feet.
  - c. The Development Review Board may require a landscaped buffer of up to 50 feet around the property's perimeter.
4. Accessory Dwelling Units as provided for in Section 12.9

### 5.3 Dimensional Requirements – VC Districts

Minimum Lot Area Per Dwelling Unit Or Principal Use	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Building Height	Maximum Building Coverage	Public Water/Sewer Requirement
10,000 sq. feet	60 feet	<del>25</del> 0 feet	10 feet	20 feet	40 feet	<del>50%</del> NA	Water and Sewer

Refer to Appendix A: Historic District Design Standards -- Section 9.4, Commercial Design Standards, and 9.5, Residential Design Standards, for specific site and building design requirements for new construction, additions, and exterior alterations.

## **SECTION 6: VILLAGE RESIDENTIAL-PROFESSIONAL (VRP) DISTRICT**

**Purpose:** The purpose of the Village Residential-Professional District is to provide a suitable location for residential development and professional offices that promotes sound economic development while encouraging development of an attractive streetscape along a major approach to the Village Center.

### **6.1 Permitted Uses in the VRP District**

The following uses, subject to all applicable dimensional, use, and administrative regulations and requirements of this Bylaw:

1. One and two family dwelling units.
2. Accessory Dwelling Units, as provided for in Section 12.9 of this Bylaw.
3. Professional Offices. Site plan review required.
4. Customary Home Occupations involving the use of a minor portion of a dwelling unit or building accessory thereto for the conduct of an occupation which is customary in a residential area and which does not have an undue adverse effect upon the character of the surrounding area or neighborhood. Any such customary home occupation shall conform to the standards set forth in Section 4.1.7 of this Bylaw. Site plan review required.
5. A residential care or group home to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A. Section 4501, shall be considered to constitute a permitted single-family residential use of property, but no such home shall be permitted if located within 1,000 feet of another existing or permitted residential care home or group home. Site plan review required.
6. A state licensed or registered family child care home serving six or fewer children shall be considered to constitute a permitted single-family use of property. A state licensed or registered family child care home serving six or more children is permitted in the VRP District, but shall require site plan review by the Development Review Board.
7. A community care facility or assisted living residence, subject to site plan review.
8. The division of land into two or more lots for the purpose of sale, lease, or development, provided the lots conform to all dimensional and access requirements for the district(s) in which they are located. Site plan review required.
9. Accessory uses and building customarily incidental to a permitted use. Uses and

buildings customarily incidental to a conditional use are permitted as an accessory to an existing or permitted conditional use.

## **6.2 Conditional Uses Permitted in the VRP District**

The following may be permitted by the Development Review Board as conditional uses in conformance with the provisions of Section 3.13.

1. Multiple Family Dwellings
2. State and community owned and operated institutions and facilities.
3. Churches and other places of worship, convents, and parish houses.
4. Public and private schools and other educational institutions certified by the State Department of Education.
5. Accessory Dwelling Units as provided for in Section 12.9

## **6.3 Dimensional Requirements – VRP District**

Minimum Lot Area Per Dwelling Unit Or Principal Use	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Building Height	Maximum Building Coverage	Public Water/Sewer Requirement
20,000 sq. feet *	60 feet	30 feet	15 feet	40 feet	30 feet	20%	Water and Sewer

- \* If a single building contains both residential and professional uses, the density requirement applies only to the residential dwelling unit(s).

## SECTION 7: INDUSTRIAL (I) DISTRICTS

**Purpose:** The purpose of the Industrial Districts is to promote the general welfare and the sound economic development of the Village of North Bennington and to encourage appropriate industrial establishments as well as compatible commercial and residential uses, all in accordance with the Village Plan. This mixed use development pattern is intended to promote economically viable redevelopment of historic industrial properties, to improve site design, and to provide and maintain open space and access to waterways.

### 7.1 Permitted Uses in I Districts

No permit shall be issued for the erection, alteration, enlargement, demolition, or relocation of a building or use in an Industrial District until a Site Development Plan shall have been approved by the Development Review Board as required by Section 3.14.

1. Any industrial use, provided such use does not create undue conditions of smoke, fumes, noise, odors, or dust, or danger from fire, explosion, corrosion, pollution, or similar hazards detrimental to the health, safety, and general welfare of the community.

Storage of any gas, oil, or other petroleum product, or flammable liquid, in an Industrial District shall conform to the National Fire Protection Association (NFPA) Standards.

2. Residential Dwellings conforming to the following standards:
  - A. Dwelling units may be permitted within existing historic (constructed prior to 1950) industrial buildings and within existing accessory buildings (constructed prior to 2005 and sharing a physical and functional connection to an existing historic industrial building) provided that:
    - ~~(1) — No such dwelling unit may be located on the first (ground) floor of a building;~~
    - (1) Separate entry ways are provided so that residential uses and industrial uses do not share common doorways, hallways, or stairways;
    - (2) There is no exterior expansion of any historic industrial building other than minor additions to provide for improved access, stairways, balconies, or similar structures, or for architecturally compatible infill construction within interior courtyards or other open areas, and the construction maintains the essential historic integrity of the building;
    - (3) Vertical additions (i.e., no increase in building footprint or coverage other than for minor additions for improved access, stairways, balconies, or similar structures) to existing accessory buildings (as described in this section) are permitted provided the



additions are consistent with the architectural character of the related historic industrial building and that all other requirements of this Bylaw are satisfied;

- (4) No dwelling unit shall have a floor area less than 600 square feet;
- (5) Dwelling units shall be sited and constructed to minimize any potential disturbance to residents from smoke, fumes, noise, odors, or dust and from any hazard detrimental to public health emanating from an industrial use within the building;
- (6) A minimum of 1.5 parking spaces shall be provided for each dwelling unit (i.e., 3 spaces for two dwelling units), and residential parking areas shall be clearly marked as such and located as close to the corresponding entryway as possible;
- (7) Residents of the dwelling units shall be provided access to open space on the property and to lands adjoining Paran Creek;
- (8) All dwelling units shall be connected to public water and sewer systems;
- (9) There is no minimum lot area for dwelling units constructed within historic industrial buildings.

B. Construction of new residential units in the Industrial District may be permitted provided that:

- (1) All such dwelling units shall be contained in two-family or multiple family dwelling buildings;
- (2) The minimum lot area per dwelling unit shall be 8,000 square feet;
- (3) There may be more than residential building on a single lot. No principal building shall be located less than 30 feet from any other principal building on the lot;
- (4) Minimum front yard for each building shall be 25 feet. Minimum side and rear yard for each building shall be 20 feet. Maximum building height shall be 30 feet. Maximum building coverage shall be 25 percent of lot area.
- (5) All dwelling units shall be connected to public water and sewer systems;
- (6) A minimum of 1.5 parking spaces shall be provided for each dwelling unit;
- (7) There shall be only one driveway access to the residential parking area(s) unless an alternative access plan is approved by the Development Review Board;
- (8) Building and site design shall be compatible with the historic character of the area;
- (9) Adequate open space, landscaping, walkways, and lighting shall be provided. Lighting shall be adequate for safety and security, but shall not result in excess light or glare. Public access shall be provided to any open space areas bordering Paran Creek and the Walloomsac River.

3. Retail sales of goods produced on the site and closely related items only, professional offices, and restaurants located within historic (constructed prior to 1950) industrial buildings, subject to the following standards:
  - (1) These uses shall be restricted to existing buildings, although minor additions may be constructed to provide for improved access, stairways, balconies, and for architecturally compatible infill construction within interior courtyards or other open areas, and the construction maintains the essential historic integrity of the building. Outdoor seating areas for restaurants also are permitted;
  - (2) The proposed use is compatible with the existing and planned uses of the building, considering location, design, and potential disturbances related to industrial use;
  - (3) The essential historic integrity of the building is maintained, while encouraging innovative design and use of materials to promote effective adaptive reuse of the building;
  - (4) The use and development is consistent with the Village Plan;
  - (5) Adequate and safe vehicle parking and ingress and egress are provided;
  - (6) Safe and convenient pedestrian access and circulation are provided;
  - (7) Adequate open space, landscaping, walkways, and lighting shall be provided. Lighting shall be adequate for safety and security, but shall not result in excess light or glare. Public access shall be provided to any open space areas bordering Paran Creek.
  - (8) One parking space shall be provided for every 250 square feet of floor area for retail or professional use, and one space for every 3 seats plus one space for each employee for restaurants.
4. Accessory uses and building customarily incidental to a permitted use. Uses and buildings customarily incidental to a conditional use are permitted as an accessory to an existing or permitted conditional use.

## **7.2 Conditional Uses Permitted in I Districts**

The following may be permitted by the Development Review Board as conditional uses in conformance with the provisions of Sections 3.13 and 3.14.

1. State and community owned and operated institutions and facilities.
2. Public and private schools and other educational institutions certified by the State Department of Education.
3. Churches and other places of worship, convents, and parish houses.

4. Public and private hospitals.
5. Regional solid waste management facilities certified under 10 V.S.A. Chapter 159, as required pursuant to 24 VSA Section 4413(a).
6. Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. Section 6606a, as required pursuant to 24 VSA Section 4413(a).

### **7.3 Treatment of Front Yards and Driveways**

1. A continuous strip not less than 10 feet in width shall be maintained between the street line and the balance of the lot in all Industrial Districts, which strip shall be suitably landscaped and maintained in good appearance. The required strip may be traversed only by driveways and pedestrian walks. Use of the front yard for driveways and parking shall be minimized to the extent possible and the balance shall be suitably landscaped and maintained in good appearance. No portion of the front yard shall be used for storage or for any purposes except as provided above.
2. Driveways and their intersections with streets or highways shall be located and designed, as approved by the Development Review Board. Unless otherwise specifically approved by the Development Review Board there shall not be more than one highway access driveway for lots with less than 200 feet of frontage and one additional highway access driveway for each 200 feet of frontage in excess of 200 feet. Driveways shall be located not less than 150 feet from street intersections and shall enter streets in such a manner as to provide the maximum sight distance possible. Driveways shall not exceed 40 feet, nor be less than 20 feet, in width measured at and parallel to the street line except that dual driveways may be permitted as approved by the Development Review Board. Such dual driveways shall consist of two lanes marked respectively for entrance and exit with each lane not more than 30 feet, nor less than 20 feet, in width. The Development Review Board may require the installation of acceleration and deceleration lanes on the street or highway adjacent to any driveway if it deems necessary. Where the lot fronts upon a state highway, the owner shall first obtain the approval of the Vermont Agency of Transportation for all driveway access, and shall submit evidence of such approval with the proposed site plan.

#### 7.4 Dimensional Requirements for Industrial Buildings and Uses and Conditional Uses

Minimum Lot Area Per Principal Use	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Building Height	Maximum Building Coverage	Public Water/Sewer Requirement
40,000 sq. feet  Density for residential uses as per Section 7.1.2(A) and (B)	150 feet	20 feet	10 feet	25 feet	40 feet	40%	Water and Sewer

## **SECTION 8: EDUCATION CAMPUS (EC) DISTRICT**

**Purpose:** The Education Campus District is intended to provide Bennington College with the ability to develop its campus in an attractive and efficient manner. These regulations will allow the College to further develop the campus in accordance with the overall master plan for the college. The master plan shall be maintained in the Village Offices and will provide a clear indication as to the location, size, and use of existing buildings and proposed buildings and lands, as well as the location of existing and planned roads, parking lots, and other infrastructure. Bennington College shall update the master plan periodically and submit any revisions to the Development Review Board for comment and a determination of whether the plan is consistent with the Village Plan.

No permit shall be issued for land development in the EC District until a site plan has been approved by the Development Review Board pursuant to Section 3.14. The Development Review Board may modify certain submission requirements for site plan review depending upon the scope of the project. The Development Review Board may, at its discretion, waive site plan approval when a project or use is substantially consistent with the campus master plan or the proposed project is so minor as to have negligible effect on the review criteria for site plan review.

### **8.1 Permitted Uses in the EC District**

1. Educational Facilities.
2. Centers for Visual or Performing Arts and Related Cultural Facilities.
3. Library and Related Research and Conference Facilities.
4. Dormitories for those attending the College or College sanctioned programs.
5. One-family, Two-family, and Multi-family dwellings for faculty, employees, and guests of the College.
6. Early Childhood Center and Day Care Facilities.
7. Indoor and Outdoor Recreation Facilities.
8. Office, Administrative, and Service Buildings related to the College's operation.
9. Scientific Research Laboratories, subject to any approval and health risk assessment required by local, state, or federal agencies.
10. Agricultural and Silvicultural Uses and Practices.
11. Nature Preserves and Conservation Lands.

12. Temporary Structures and Outdoor Uses, with adequate provision to ensure public health and safety. A zoning permit is not required for temporary structures in use for less than three weeks. For large outdoor events with 100 or more attendees/day – in addition to college students and college staff – the local police and fire departments, and the rescue squad, shall be notified.

13. Accessory Structures and Uses customarily incidental to a permitted use.

## **8.2 Dimensional Requirements for Buildings and Uses in the EC District**

There shall be no buildings, structures, or parking facilities located within 50 feet of any property line. This 50-foot wide area shall be maintained as a natural vegetated buffer to the maximum extent possible. Any building construction within 200 feet of the boundary of the property (and consequently of the EC District) shall require site plan review by the Development Review Board. Maximum building height is 45 feet.

## **8.3 Off-Street Parking**

Sufficient off-street parking shall be provided for all buildings and uses; on-street parking should be avoided. Parking shall be planned so as to ensure ease and efficiency of access by emergency vehicles.

## **8.4 Sale or Transfer of Property**

Any lands sold or otherwise transferred to a party not associated with Bennington College, and intended for a use not directly related to the college, shall be reclassified as part of the VR-40 Zoning District. The subdivision proposal shall be subject to review by the Development Review Board. As part of said review, Bennington College shall first submit a revised College Master Plan to the Planning Commission for consideration and comment. The Planning Commission shall prepare a report on the effect of the transfer and College Master Plan amendment on the Village Plan, and shall consider probable impacts on natural resources and surrounding properties, and on the provision of public services, and shall submit said report to the Development Review Board for inclusion in their subdivision review.

## SECTION 9: HISTORIC DISTRICT DESIGN STANDARDS

**Purpose:** The Historic District is intended to provide the Planning Commission and Development Review Board with a consistent tool for reviewing and approving any new development within the district. At the same time, it will provide property owners within the district a guide to development practices which are in keeping with the character of the Village and will provide design and development standards and guidelines which will help preserve the character of the Village. This section also is intended to establish a process that will facilitate communication and understanding between property owners and the Development Review Board, thereby simplifying the review process.

**Incentives:** The Village of North Bennington has been designated an official “Village Center” under the State of Vermont’s Downtown Program. The Village Center designation provides tax incentives to encourage the preservation and restoration of historic buildings within its district. These incentives include:

- Vermont Income Tax Credit for substantial rehabilitation of certified historic buildings within the district.
- Vermont Income Tax Credit for code improvements to commercial buildings.
- Priority consideration for the State’s Municipal Planning Grant program and consolidated plan for HUD funding (including the Community Development Block Grant program).
- The State Buildings Department will give consideration and priority to designated Village Center locations when leasing or constructing buildings, in consultation with the community.

### 9.1 Properties and Geographic Areas Affected

The design standards included in this section apply to any of the following within the Village Historic District:

- Commercial Properties (Section 9.4): All new construction, additions, or exterior alterations to existing buildings, including a change of exterior materials, colors, or site plan configuration.
- Residential Properties (Section 9.5): All new home construction, including additions which are greater than 50 percent of the habitable floor area of the existing home, and accessory buildings in excess of 250 square feet. Other additions or modifications to residential properties are exempt from these requirements, but are encouraged to use these standards as general design recommendations whenever possible.

These standards also apply to commercial or residential structures which are rebuilt in the event of a loss due to fire or other destruction unless it is determined by the Development Review Board that the new construction is significantly similar in overall design and appearance to the structure being replaced. The Development Review Board cannot require property owners to rebuild to architectural standards which would raise construction costs above the amount of insurance moneys received for such a loss.

Specific requirements of this section may be waived by the Development Review Board if it is determined that the nonconforming elements of the design meet the spirit and intent of the design standards.

The standards outlined in this section are not retroactive, applying only to changes within the district after the date that these standards have been adopted in the Village Bylaws.

The boundaries of the Historic District, and the Village Center within it, are illustrated in Figures 1 and 2, respectively. The use and dimensional requirements of the zoning district in which any property is located apply in addition to the standards and guidelines of this section.

## **9.2 Process**

Any property owners within the Historic District who wish to undertake work covered in Section 9.2, above, should follow these standards to guide their design prior to commencing any work. The property owners must then submit an application to the Zoning Administrator. The application will be referred to the Development Review Board within 15 days of receipt of a complete application. The Development Review Board will then review the proposed work at a public hearing to determine if it is in compliance with the design standards before issuing a decision. Such decision shall be issued within 45 days of the close of the public hearing.

The applicant shall include a site plan and building elevations that clearly show the nature and extent of the proposed improvements, together with the required application form.

## **9.3 Definitions**

For the purposes of this section, the term “historic” shall mean any structure which is catalogued as part of the Historic Register within the Historic District, and/or any element (such as a stone wall or fence) which is deemed by the Development Review Board to have historic value to the community.

*Sections 9.4 and 9.5, consisting of the following subsections, are specifically included as part of Section 9 of this Bylaw. Sections 9.4 and 9.5 are included in their entirety in Appendix A.*

### **9.4 Commercial Design Standards**

- 9.4.1 General Requirements**
- 9.4.2 Site Planning and Landscaping**
- 9.4.3 Height and Roof Design**
- 9.4.4 Scale and Massing**
- 9.4.5 Proportioning and Rhythm**
- 9.4.6 Fenestration, Doors, and Windows**
- 9.4.7 Materials and Colors**
- 9.4.8 Exterior Materials List**
- 9.4.9 Lighting**

### **9.5 Residential design Standards for New Construction and Substantial Additions**

- 9.5.1 General Requirements**
- 9.5.2 Site Planning and Landscaping**
- 9.5.3 Height and Roof Design**
- 9.5.4 Scale and Massing**
- 9.5.5 Proportioning and Rhythm**
- 9.5.6 Fenestration, Doors, and Windows**
- 9.5.7 Materials and Colors**



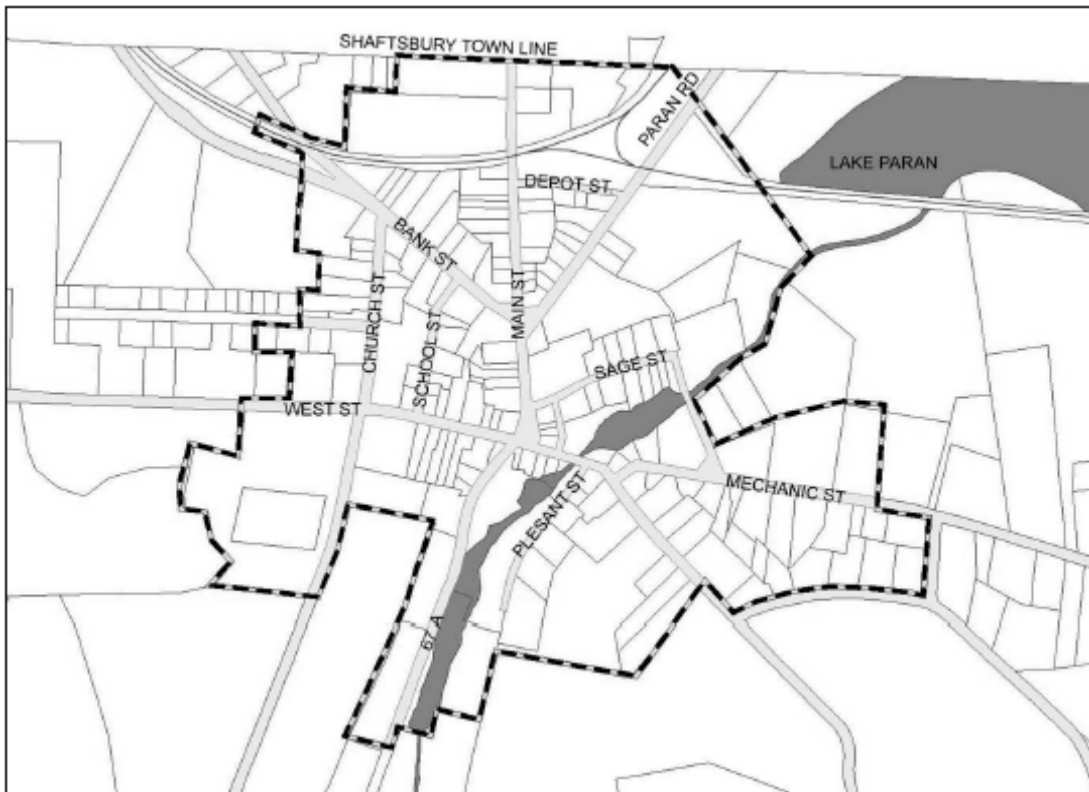


Figure 1. The approximate boundary of the Historic District of North Bennington. Contact the Village for official maps or zoning designations for individual lots.

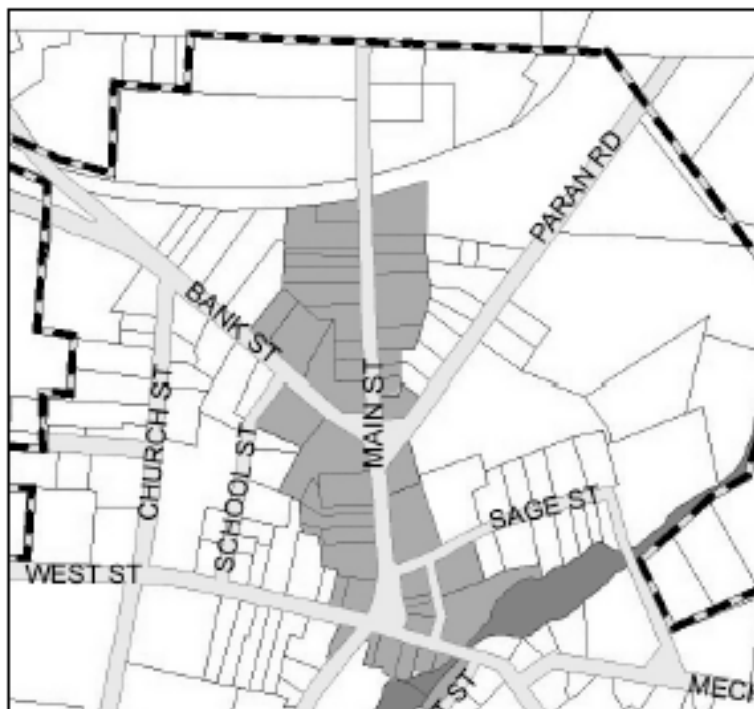


Figure 2. The Village Center district is highlighted in gray. All properties within this district are eligible for special incentives as outlined in this section.

## **SECTION 10: FLOOD HAZARD AREA REGULATIONS**

**Purpose:** In addition to the purpose of the zoning district(s) underlying the Flood Hazard Area, the purpose of this regulation is to protect the public health, safety, persons, and property against the hazards of flood water inundation, and for the protection of the community against the costs which may be incurred when unsuitable development occurs in swamps, marshes, along water courses, or in areas subject to flooding.

### **10.1 Flood Hazard Area Maps**

These regulations shall apply in all areas in the Village of North Bennington identified as areas of special flood hazard in and on the most current flood insurance studies and maps published by the Federal Emergency Management Agency which are hereby adopted by reference and declared to be part of these regulations. The location of the boundary shall be determined by the Administrative Officer. If the boundary cannot be accurately determined or if an applicant disagrees with the determination made by the Administrative Officer, the matter shall be referred to FEMA; a Letter of map Amendment from FEMA shall constitute proof of the correct location of the boundary.

### **10.2 Base Flood Elevations and Floodway Limits**

Where available (i.e., Zone A1 – A30, AE, and AH), the base flood elevations and floodway limits provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations.

In flood hazard areas where base flood elevations and/or floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, it is the applicant's responsibility to develop the necessary data. Where available, the applicant shall use data provided by FEMA or state or federal agencies.

### **10.3 Review Procedure and Development Standards**

Review Procedure: Except as provided for in Section 10.12, all land development, including the division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure (including prefabricated units or manufactured homes), or of any mining, excavation, or land fill, and any change in the use of land in the Flood Hazard Area may be permitted only by the Development Review Board as a conditional use, in accordance with the procedures of Section 3.13 of this Bylaw.

Where base flood elevations and/or floodway limits have not been determined,

development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 1.00 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and is certified by a registered professional engineer.

Upon receipt of a complete application for a substantial improvement or a new construction, the Zoning Administrator shall transmit one copy of the application and supporting information to the State national Flood Insurance Program Coordinator at the Vermont Agency of Natural Resources, in accordance with 24 V.S.A. Section 4424. A permit may be issued only following receipt of comments from the Department or the expiration of 30 days from the date the application was mailed to the Department, whichever is sooner.

Adjacent communities and the Department shall be notified at least 15 days prior to issuing any permit for the alteration or relocation of a watercourse, and copies of such notification shall be submitted to the Administrator of the Federal Insurance Administration.

Proposed development shall be reviewed to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal and State law.

Development Standards: In addition to the district requirements, the Development Review Board shall determine that all development is:

- a. Reasonably safe from flooding.
- b. Designed and anchored to prevent flotation, collapse, or lateral movement of the structure.
- c. Constructed of materials and utility equipment that are resistant to flood damage.
- d. Constructed using methods and practices that will minimize flood damage.
- e. Consistent with the need to minimize flood damage.
- f. Designed so that public utilities and facilities, such as sewer, gas, electrical, and water systems, are located, elevated, and constructed to minimize or eliminate flood damage. Construction shall insure that electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities are designed and/or located so as to prevent water from entering or accumulating within components during conditions of flooding.
- g. Designed so that adequate drainage is provided so as to reduce exposure to flood hazards.

- h. New or replacement water supply systems, and/or sanitary sewage systems, are designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and that on-site disposal systems are located so as to avoid impairment of them or contamination from them during flooding.
- i. Base flood elevation and floodway data identified in Section 10.2 shall be used to ensure that the lowest floor (including basement) of residential buildings is elevated to be one foot or more above the base flood elevation and the floodway be kept free of obstructions.
- j. The lowest floor (including basement) of any substantially improved non-residential buildings and other structures, shall be elevated or flood-proofed to at least one foot above the 100 year flood level, or be designed to be watertight with the walls substantially impermeable to at least two feet above the base flood elevation and with structural components having the capability 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 subsection.

Structures to be substantially improved in Zone A, A1-30, AE, and AH shall be located such a that the lowest floor is at least one foot above base flood elevation; this must be documented in as-built condition with a FEMA Elevation Certificate.

- k. Enclosures below grade on all sides (including below grade crawlspaces and basements) are prohibited. Fully enclosed areas that are above grade, below the lowest floor, below base flood elevation, and subject to flooding, shall
  - i. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits, and
  - ii. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria: a minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings shall be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- l. Storage of materials or equipment may be permitted if not subject to damage by floodwater, and are firmly anchored or secured to prevent flotation.

- i. Fill may be permitted in the flood hazard area only when it can be demonstrated that flood flows will not be obstructed or diverted. No fill shall be permitted in the floodway unless a registered professional engineer certifies that the proposed fill will not result in any increase in flood levels during the occurrence of the base flood.
- ii.. New and replacement manufactured homes shall be elevated on properly compacted fill, such that the top of the fill (the pad) under the entire manufactured home is at least one foot above the base flood elevation.
- iii. The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
- iv. Recreational Vehicles placed on sites within Zones A1 – A30, AH and AE shall either: be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use, or meet all standards of Section 60.3(b)(1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for “manufactured homes” of Section 60.3(c)(6).
- m. Encroachments or development above grade and below the elevation of the floodway are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a registered professional engineer, certifying that the proposed development will not:
  - i. Result in any increase in flood levels (0.00 feet) during the occurrence of the base flood; and
  - ii. Increase any risk to surrounding properties, facilities, or structures from erosion or flooding.

#### **10.4 Burden of Proof**

In reviewing the proposed land development, the burden of proof shall be on the applicant.

#### **10.5 Prohibited Uses**

Junkyards, as defined in 24 V.S.A. 2068, solid waste disposal sites, and storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway.

All structures, other than those existing on the effective date of this Bylaw and those specifically identified in Sections 10.6 (a-i) and 10.7 (b-e), are prohibited.

## **10.6 Uses Permitted in Flood Hazard Areas Without Conditional Use Review**

The following uses are permitted in flood hazard areas, provided that they do not reduce the flood carrying capacity of the stream. A permit may be issued for these uses by the Land Use Administrator without conditional use approval by the Development Review Board.

Any state and federal permits applicable to the subject activity must be submitted as part of the zoning permit application; alternatively, a Project Review Sheet from the Department of Environmental Conservation – identifying all required state and federal permits – may be filed as an attachment to the permit application. All such permits must be submitted to the Administrative Officer before work on the project can commence.

- a. Streambank restoration and stabilization;
- b. Necessary improvements by the municipality in case of an emergency;
- c. Landscaping that does not involve the erection of any structure;
- d. Culverts;
- e. Swales;
- f. Drainage ditches;
- g. Fish and wildlife habitat improvement not requiring structures;
- h. Agricultural uses;
- i. A wall or fence, provided it does not impede the flow of flood waters.

## **10.7 Conditional Uses in Flood Hazard Areas**

The following uses are conditionally permitted in flood hazard areas, subject to the requirements of this section and all other applicable sections of the zoning Bylaw. Any state and federal permits applicable to the subject activity must be submitted as part of the zoning permit application.

- a. Uses permitted or conditionally permitted in the land use district in which the subject property is located, that are not specifically identified in Section 10.5;
- b. Bridges;
- c. Fish and wildlife habitat improvement requiring structures;
- d. Ponds, provided that all excavated material is removed from the floodway;
- e. Access ramps for canoes, boats, tubes, swimmers, and fishermen.

## **10.8 Expansion of Existing Buildings in the Floodway**

No existing building in the floodway may be enlarged to create a greater encroachment on the floodway.

## **10.9 Application Requirements**

Applications shall include, in addition to any other requirements of this Bylaw, plans in

triplicate, drawn to scale, showing the nature, location, dimensions, and elevations of the lot, plat, or parcel, existing and proposed structures, fill and storage of materials, flood-proofing measures, and the relationship of the above to the location of the channel, flood hazard area, and, based on the best information available, the elevation of the 100 year flood. A valley cross-section showing the stream channel, and elevation of land adjoining each side of the channel, and areas occupied by the proposed development may be required.

#### **10.10 Precedent of Law**

Where this regulation imposes a greater restriction upon the land development, the provisions of this regulation shall control.

#### **10.11 Administration and Enforcement**

The provisions of this regulation shall be administered and enforced as provided for in Section 13 of this Bylaw. The Administrative Officer shall maintain a record of:

- a. All permits issued for development in areas of special flood hazard.
- b. Elevation Certificates with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) of the lowest floor, including basement, of all new or substantially improved buildings (not including accessory buildings) in the flood hazard area.
- c. All flood-proofing certifications required under this regulation.
- d. All variance actions, including justification for their issuance.

#### **10.12 Variances**

Variances shall be granted by the Development Review Board only in accordance with the provisions of Section 13.8 of this Bylaw, 24 VSA Section 4424(E) and 44 CFR Section 60.6, and upon determination that the variance will not result in increased flood heights that pose threats to public safety, extraordinary public expense, create nuisances or victimization of the public, or conflict with existing local laws or ordinances.

Any variance issued in the flood hazard area will inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the base flood elevation increases the risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for every \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

#### **10.13 Disclaimer**

These regulations shall not be construed to imply that areas outside of the flood hazard areas, or land uses permitted hereunder, within such flood hazard areas, will be free from flooding or flood damage. No permit issued hereunder, or development permitted in accordance herewith, shall create any liability on the part of the Village of North Bennington, or any officer, agent, or employee thereof.

#### **10.14 Definitions**

The National Flood Insurance Program definitions contained in 44 CFR Section 59.1 are hereby adopted by reference and shall be used to interpret and enforce these regulations. These definitions are reprinted in Appendix B of these bylaws.



## **SECTION 11: CONSERVATION (CONS) DISTRICT**

**Purpose:** The Conservation District is intended to provide for limited residential development and natural resource based uses in a manner that maintains the environmental quality of these unique lands, discourages sprawl, and enhances scenic, open space, and historic qualities of the Village of North Bennington.

### **11.1 Permitted Uses in the CONS District**

1. One-family and Two-family dwellings
2. Accessory Dwelling Units, as provided for in Section 12.9
3. A state licensed or registered residential care home or group home, serving not more than eight persons who are developmentally disabled or physically handicapped, except that such homes shall be located not less than 1,000 feet from another such home. Site plan review is required.
4. Pursuant to 24 VSA Section 4413(5), a state licensed or registered family child care home serving six or fewer children shall be considered to constitute a permitted one-family residential use of property. A family child care home serving no more than six full-time and four part-time children (as defined in 33 VSA Section 4902(3)(A)) also shall be permitted, but shall require site plan review by the Development Review Board.
5. Agricultural uses and practices as defined by the Secretary of Agriculture, Food, and Markets.
6. Accepted silvicultural practices as defined by the Commission of Forests, Parks and Recreation.
7. Customary home occupations conforming to the following criteria:
  - a. Customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; and
  - b. Customarily practiced in the community at home; and
  - c. Carried on by a member of the family residing in the dwelling unit; and
  - d. Clearly incidental and secondary to the use of the dwelling unit for residential purposes; and
  - e. Conforms to the following additional conditions:
    - i. the occupation or profession is carried on wholly within the building or structure;
    - ii. not more than two persons outside the family are working on the premises in the home occupation at any point in time;
    - iii. there is no exterior display or exterior sign except one unlighted identification sign, not more than two square feet in area, no exterior storage of materials, and no other exterior indication of a home occupation or variation from the

- residential character of the principal building;
- iv. no offensive noise, vibrations, smoke, dust, odors, heat, light, or glare are produced;
- v. there are no retail sales, unless the items sold are the product of the owner's own labor, or are incidental to the products of the owner's own labor, or are antiques;
- vi. the customary home occupation does not affect the residential character of the neighborhood;
- vii. traffic and parking must satisfy zoning Bylaw requirements;
- viii. utilize an area not to exceed 40% of the floor area of the principal dwelling unit on the property up to a maximum of 1,500 square feet; a home occupation may be in a dwelling unit or an accessory building.

In particular, a home occupation includes, but is not limited to, the following: antique shops, dress making, home cooking, teaching, and the skilled practice of an accountant, architect, artist, dentist, photographer, doctor, engineer, insurance agent, lawyer, musician, realtor, barber or beautician, or any other profession or skilled practice carried on within the dwelling occupied by the practitioner. Instructional classes shall be limited to classes in connection with the manufacturing or production of products on the premises or to classes for specific dance, theatrical, gymnastics, exercise, or similar uses.

However, a home occupation shall not be interpreted to include the following: commercial stables and kennels, restaurants, garages, or shops for repair of motor vehicles.

Site plan review of any customary home occupation by the Development Review Board is required.

8. Temporary and seasonal roadside stands for sale of produce primarily from the land where the stand is to be located, provided that:
  - a. The stand shall remain in place and operation for a period not exceeding four months per year. The stand will be dismantled and stored away from public view after the end of the season of operation.
  - b. The use will not create a nuisance or alter the essential residential character of the property or the surrounding area.
  - c. The stand shall not be erected within the established front yard areas and shall be set back at least 20 feet from all side and rear property lines.
  - d. Produce may not be displayed within 20 feet of any property line. All displays shall be dismantled and removed daily from public view.
  - e. Temporary signs must be installed on the property and must be removed daily from public view. Signs also are subject to review under the Village Sign Ordinance and shall be installed so as not to create a hazardous vehicle or pedestrian condition.
  - f. Adequate off-street parking shall be provided so as not to create a hazardous vehicle or pedestrian traffic condition.
  - g. The use shall not be construed to permit the operation of permanent commercial

establishments or for shipping or selling of agricultural products of origination off the property.

- h. Any relevant Department of Health regulations are met.

Site plan review of any roadside stand by the Development Review Board is required.

9. Accessory uses and buildings customarily incidental to a permitted use. Uses and buildings customarily incidental to a conditional use are permitted as an accessory to an existing or permitted conditional use.
10. Garage, yard, or tag sales conducted outdoors without permanent structures by the resident of the premises and clearly as an accessory use on a residential site, provided that:
- i. Merchandise shall be limited to items of personal property such as antiques, furniture, handicrafts, household goods, toys, or clothing.
  - j. Such sales may occur on no more than four occasions in any calendar year, each occasion lasting no more than 36 hours.
  - k. Merchandise may be displayed within the front yard, but all merchandise shall be removed from public view at the end of the event.
  - l. No heavy equipment, large machinery or tools, motor vehicles or trailers, or materials associated with the residents' place of business shall be sold.
  - m. Parking shall be controlled in a manner that will not create a hazardous condition for vehicles or pedestrians.
  - n. Temporary signs are restricted to the lot where the sale is occurring, shall be displayed only during the sale, and shall not create a hazardous condition for vehicles or pedestrians.
11. The division of a parcel of land into two or more lots for the purpose of sale, lease, or development, provided the lots conform to all dimensional and access requirements for the district(s) in which they are located. Site plan review is required.

## 11.2 Dimensional Requirements – CONS District

Minimum Lot Area Per Dwelling Unit Or Principal Use	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Building Height	Maximum Building Coverage	Public Water/Sewer Requirement
200,000 sq. feet	40 feet	25 feet	40 feet	30 feet	5 %	No Requirement

## **SECTION 12: SPECIAL REGULATIONS**

### **12.1 Protection of Streams and Water Courses**

- a. No structure shall be placed, and no land shall be excavated, filled, or graded in any zoning district within a distance of at least one hundred (100) feet from the normal bank of any stream or watercourse except with the approval of the Development Review Board. Land within fifty (50) feet of any stream bank shall not be stripped of natural vegetation and shall remain as an undisturbed natural buffer. The requirements of this section shall not apply to agricultural uses, the normal maintenance of existing lawns, to the minimum amount of land development necessary for the installation or replacement of a residential well or sewage disposal system, or the construction or maintenance of public use pathways approved by the Village. This paragraph does not apply to the shoreline of ponds.
- b. Notwithstanding paragraph a of this section, any land development which requires a Stream Alteration Permit under 10 V.S.A. Chapter 41 or a permit for construction of a dam under 10 V.S.A. Chapter 43 may receive a zoning permit from the Administrative Officer without the approval of the Development Review Board after presentation of evidence that all required State permits have been granted.
- c. For all other land development described in paragraph a of this section, application for approval shall be submitted to the Development Review Board with such surveys, maps, and other data as the Board may require in order to reach its decision.
- d. Prior to granting such approval, the Development Review Board shall have found that the proposed construction, earth excavation, filling, or grading will not contribute to any impeded drainage, flood hazard, erosion, silting, or other adverse effect on natural conditions, or on fish or wildlife habitat, nor interfere with present or planned storm water drainage system of the Town. The Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites and the Vermont Streambank Conservation Manual may be used as guides in meeting this requirement.

### **12.2 Off-Street Parking**

- a. Each dwelling unit shall be provided with at least two parking spaces, off-street and out of the public right-of-way, except for accessory dwelling units (one parking space per dwelling unit required), and as otherwise specifically provided for in this Bylaw.
- b. Retail establishments, professional offices, financial institutions, personal service business, and similar uses shall provide one parking space for every 300 square feet of gross floor area.

- c. Commercial lodging facilities shall provide at least one parking space for each guest room and one parking space for each employee on the site at any one time.
- d. Restaurants or taverns shall provide one parking space per four seats and one space for each employee on site at one time. Consideration may be given to the availability of public municipal parking within 300 feet of such establishment.
- e. Service stations shall provide one parking space for every 350 square feet of gross floor area, and queue capacity equal to the service capacity of the pumps.
- f. Schools shall provide one parking space per employee, one space per classroom, and adequate drop-off areas.
- g. All other commercial uses shall provide the number of parking spaces deemed necessary by the Development Review Board to safely and conveniently accommodate the employees and customers at that site, or as specifically provided in this Bylaw.
- h. Industrial uses shall provide at least one parking space for every three persons normally employed on any one shift, or as otherwise required by specific provisions of this Bylaw or as required by the Development Review Board.
- i. In the Village Commercial District, it may be impractical to provide required off-street parking due to small lot sizes and the size and location of existing buildings. In these cases, the Development Review Board may give consideration to municipal off-street parking, on-street parking, and the potential for shared private parking when determining parking requirements. Buildings or uses lacking sufficient off-street parking shall not be permitted to enlarge the structure or expand the use in a way that would increase parking demand if the Development Review Board determines that such changes would worsen existing parking conditions or create a safety hazard.
- j. In VR Districts, required parking may not be located in the front yard setback, unless on a driveway on a permitted curb cut. Pavement shall not replace lawns or planted areas in the front yard.

### **12.3 Mobile Homes and Travel Trailers**

- a. A mobile home may be used as a dwelling, except within the Village Historic District (Section 9.1), provided that it is located on a lot meeting all of the requirements of this Bylaw applicable to a dwelling in the district in which it is located, and that it is suitably anchored to a permanent masonry foundation and is enclosed by some form of permanent skirting.
- b. A mobile home or travel trailer may be used temporarily as a field office, accessory to a construction operation being executed on the premises, for a period not to

- extend beyond the time of contract.
- c. On any lot meeting the dimensional requirements of this Bylaw, the permanent resident of the dwelling on that lot may store an unoccupied travel trailer, boat trailer, or boat anywhere except in the front yard.
  - d. A travel trailer may be occupied by a non-paying guest of the occupant of such lot for a period not exceeding 30 days in any 12 month period.

#### **12.4 Protection of Shoreland (Shoreland Protection Overlay Area)**

- a. Purpose: These regulations are intended to provide a safety zone to avoid flood damage, preserve the aesthetic qualities of the shoreland, protect public waters from pollution, protect spawning grounds and wildlife habitat, and prevent erosion.

Shoreland is defined to include those lands within the Village of North Bennington extending back 500 feet from the mean high water line of Lake Paran.

- b. Uses within the designated Shoreland may include those uses permitted or conditionally permitted in the VR-20 District. Waste disposal, sanitary landfill, and the storage of industrial wastes or hazardous products are specifically prohibited in the shoreland area.

All buildings and subsurface wastewater facilities in the shoreland area shall maintain a minimum setback of 200 feet from the mean high water line of Lake Paran. Land within this setback shall be maintained in its natural condition to the extent possible.

#### **12.5 Swimming Pools and Ponds**

- a. A swimming pool may be considered accessory to the use of a dwelling unit provided such pool is used only by the residents of the premises and their guests, that no portion of the water area be closer than 20 feet from any lot line, and that the pool be securely fenced with a latching gate to a height of not less than four feet.
- b. A pond may be approved by the Development Review Board after a public hearing provided that there shall be no adverse effect upon the public health and safety or upon land uses in the area. No water area shall be closer than 20 feet from any side or rear lot line except as approved by the Development Review Board.

In reviewing an application for a pond, the Development Review Board shall require such plans, specifications, and other information it deems necessary to effectively evaluate the safety of the proposed pond. Such information shall include, at a minimum:

- Map of the entire property showing the location of the pond with respect to present structures, roads, and boundaries;

- The nearest building(s) on adjoining land;
- Specifications for the dam, if one is to be constructed;
- An estimate of the surface area of the pond and the volume of water;
- Natural or proposed drainage and contours;
- Evaluation and recommendation by the Natural Resource Conservation Service.

## **12.6 Grading and Change of Contours**

- a. When changes in the surface elevation of the land could result in a diversion of surface water or other drainage onto the lands of adjacent property owners, a site plan shall be submitted to the Development Review Board for review. The site plan shall be in conformance with Section 3.14 of this Bylaw and shall show the area affected, the amount of material to be removed, the runoff pattern, ditches, culverts, and catch basins as needed, and provisions for erosion control. The site plan review shall be held at a public hearing, notice of which shall be forwarded by the applicant to each owner of each property adjacent to the subject parcel.

Any drainage shall not be allowed to flow over streets or other rights-of-way. Drainage ways shall not create or add additional water to stagnant pools, nor shall they discharge into any stream or pond in a manner that would adversely effect water quality.

## **12.7 Earth Products Removal**

Except as otherwise provided in this subsection, there shall be no removal from the premises of earth, sand, gravel, clay, or stone, except as surplus material resulting from a bona fide construction, landscape, or agricultural operation being executed on the premises, and provided that no permanent damage is done to the landscape.

- a. A site plan conforming to the requirements of Section 3.14 of this Bylaw shall be submitted with any application for such removal of earth products. The Development Review Board shall review any application for removal of earth, sand, gravel, clay, or stone at a public hearing, which shall be subject to the following requirements:
  - i. The applicant shall submit a plan showing the existing grades in the area from which the material is to be removed, together with the finished grades at the conclusion of the operation.
  - ii. The operator shall provide for proper drainage of the area during and after completion of the work, and no bank shall exceed a slope of one foot of vertical rise in two feet of horizontal distance, except in ledge rock. No removal shall take place within 20 feet of a property line, except where the grade from a property line rises toward the lot where removal is to take place, material lying above the grade at the property line may be removed.

- iii. At the conclusion of the operation, or of any substantial portion thereof, the whole area where removal takes place shall be covered with not less than 4 inches of top soil and seeded with a suitable cover crop, except that portion where ledge is exposed.
- iv. If the extractions is wholly or partly from a stream bed, it shall be carried on in such a manner that there shall be no obstruction or substantial change in normal flow, and at the conclusion of work in any section there shall be no increase in erosion or flood hazards. Additionally, a stream alteration permit and any other required approvals shall be obtained from the Vermont Department of Environmental Conservation.
- v. Existing earth product extractive operations must conform to this Bylaw from its effective date with respect to any enlargement of the area on which such operations are conducted.
- vi. In accordance with the provisions of 24 V.S.A. Section 4464(b), a performance bond or other security shall be posted by the applicant with the Treasurer of the Village in an amount determined by the Development Review Board sufficient to guarantee conformity with the provisions of the permit issued hereunder.

## **12.8 On-Site Wastewater Disposal**

All buildings and uses not utilizing a municipal sewer system for wastewater disposal shall comply with the current Vermont Health Regulations regarding wastewater treatment and disposal for on-site systems. Prior to approval and granting of a zoning permit, the applicant shall certify that a permit has been obtained demonstrating compliance with the above and shall attach a copy of such permit with the application for a zoning permit.

## **12.9 Accessory Dwelling Units**

- a. Pursuant to 24 V.S.A. Section 4412(1)(E) and (F), an accessory dwelling unit, as defined in this Bylaw, is permitted as a use subordinate to a one-family dwelling, provided such accessory dwelling unit meets all applicable setback, coverage, wastewater, and parking requirements. The accessory dwelling unit may be located in the one-family dwelling structure or in an existing or new accessory structure. If creation of the accessory dwelling unit involves the construction of a new accessory structure, an increase in the height or floor area of any existing structure, or an increase in the dimension of a parking area, conditional use review shall be required.



## **SECTION 13: ADMINISTRATION AND ENFORCEMENT**

### **13.1 Administrative Officer**

The Administrative Officer shall be nominated by the Planning Commission and appointed by the Village Trustees in accordance with 24 V.S.A. Section 4448.. The Administrative Officer shall literally administer and strictly enforce the provisions of these regulations, and in doing so shall inspect developments, maintain records, and perform other associated tasks as is necessary and appropriate. A complete and accurate record of all applications, decisions, and violations acted upon shall be filed with the North Bennington Village Clerk and Bennington Town Board of Listers.

### **13.2 Development Review Board**

Development Review Board members and alternates shall be appointed by the Village Trustees for specified terms in accordance with 24 V.S.A. Section 4460. The Board shall adopt rules of procedure and rules of ethics to guide its official conduct in accordance with the requirements of the Vermont Planning and Development Act and Vermont's Open Meeting Law; and shall have all powers and duties as set forth in the Planning and Development Act to administer the provisions of these regulations, including but not limited to the power to hear and decide:

- applications for site plan and/or conditional use approval,
- applications for design approval,
- applications for PUD approval,
- applications for subdivision approval,
- applications for changes to or additions to nonconforming uses or noncomplying structures,
- appeals from any decision, act or failure to act by the Administrative Officer,
- requests on appeal for variances,
- requests for waivers,
- any other matter indicated as under its jurisdiction by any provision of this Bylaw.

### **13.3 Zoning Permit Applications and Approvals**

- a. No land development may be commenced without a permit therefore issued by the Administrative Officer. Land Development means the division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining, excavation, or landfill, and any change in the use of any building, structure, or land, or extension of use of land. Application for such permit shall be made on a prescribed form, and accompanied by a fee in the amount established by the Village Trustees. The application for the zoning permit shall be accompanied by plans and

specifications drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the exact sizes and locations on the lot of the buildings and accessory buildings then existing and the lines within which the proposed building or structure shall be erected or altered, the existing and intended use of each building or part of a building, the number of dwelling units the building is designed to accommodate, and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this Bylaw. In case the proposed building would result in the construction of more than one principal building on a single lot, the plans shall indicate for each such principal building the boundaries on the land area set aside as the site for each building and providing thereon all such yards and open spaces as are required in this Bylaw for such building within the district in which it is located.

- b. A zoning permit shall be issued by the Administrative Officer only in accordance with the Act and the following provisions:
  - i. No zoning permit shall be issued by the Administrative Officer for any structure or use that requires approval of the Development Review Board until such approval has been obtained.
  - ii. For uses requiring state agency referral, no zoning permit shall be issued until the expiration of 30 days following the submission of a report to the appropriate state agency or department.
  - iii. Within 30 days of receipt of a complete permit application, including all application materials, fees, state agency responses, and associated municipal approvals, the Administrative Officer shall either issue or deny a permit in writing. Approvals shall include certification by the Administrative Officer that the proposed structure or use complies with all provisions of these regulations. Denials shall include a statement of the time in which appeals may be made under Section 13.6. If the Administrative Officers fails to act within the 30 day period, a permit shall be deemed to be issued on the 31<sup>st</sup> day.
  - iv. Within 3 days of issuance, the Administrative Officer shall deliver a copy of the permit to the Listers and post a copy, at the Village Office, for a period of 15 days from issuance.
- c. Effective Date
  - i. No zoning permit shall take effect until the time for appeal under Section 13.6 has passed, or in the event that a notice of appeal is properly filed, until final adjudication of the appeal. Permits shall remain in effect for one year from the date of issuance, unless the permit specifies otherwise. All development authorized by the zoning permit and associated approvals shall be completed within this period, or the zoning permit shall become null and void.

- ii. The Development Review Board may grant an extension of a zoning permit for a period of one year from the date of expiration. Applications for permit extensions shall be made in writing, including a description of the specific reasons and circumstances justifying the extension, to the Administrative Officer prior to the expiration date of the permit. The request will be submitted to the Development Review Board for consideration at the next available regular meeting as an agenda item.

#### **13.4 Certificate of Occupancy**

It shall be unlawful to use or permit the use of any building or other structure or part thereof, hereafter, erected, changed, converted, or altered, in its use or structure, until a certificate of occupancy shall have been issued therefore by the Administrative Officer. Such certificate shall show that such building or structure and the proposed use thereof are in conformity with the provisions of this Bylaw or an order of the Administrative Officer or Development Review Board.

#### **13.5 Permits Applied for During Bylaw Amendment Period**

If a public notice for a first public hearing pursuant to 24 V.S.A. Section 4442(a) is issued by the Village Trustees with respect to amendment of this Bylaw, the Administrative Officer, for a period of 150 days following that notice, shall review any new application filed after the date of the notice under the proposed amendment and applicable existing bylaws and ordinances. If the new amendment has not been adopted by the conclusion of the 150 day period or if it is rejected, the permit shall be reviewed under existing bylaws and ordinances. An application that has been denied under a proposed amendment that has been rejected or that has not been adopted within the 150 day period shall be reviewed again, at no cost, under the existing bylaws and ordinances, upon request of the applicant.

#### **13.6 Appeals**

##### **a. Decisions of the Administrative Officer**

Any applicant or other interested person (as defined in 24 V.S.A. Section 4465) may appeal a decision or act of the Administrative Officer by filing a notice of appeal with the Secretary of the Development Review Board, or the Town Clerk if no Secretary has been elected, within 15 days of the date of such decision or act.

- i. The Development Review Board shall hold a public hearing on a notice of appeal within 60 days of its filing. The Board shall give public notice of the hearing under, and shall mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.
- ii. A decision on appeal, to include written findings of fact, shall be rendered within 45 days after hearing completion.. The Development Review Board may

reject an appeal without hearing, and render a decision within 10 days of the filing of a notice of appeal, if the Board determines that the issues raised by the appellant have been decided in an earlier appeal, or are based on substantially or materially the same facts, by or on behalf of the appellant. Copies of the decision shall be mailed to the appellant and hearing participants, and filed with the Administrative Officer and Town Clerk.

b. Decisions of the Development Review Board

Any interested person who has participated in a regulatory proceeding before the Development Review Board may appeal the decision of the Development Review Board within 30 days of such decision to the Vermont Environmental Court, as provided for in 24 V.S.A. Section 4471.

c. Notice of Appeal

A notice of appeal shall be in writing and include:

- i. the name and address of the appellant;
- ii. a brief description of the property with respect to which the appeal is taken;
- iii. a reference to applicable bylaw provisions;
- iv. the relief requested by the appellant, including any request for a variance from one or more provisions of these regulations; and
- v. the alleged grounds why such relief is believed proper under the circumstances;

### **13.7 Enforcement**

Any person who violates the provisions of this Bylaw shall be subject to the penalties and remedies prescribed in 24 V.S.A. Section 4451 to 4454.

### **13.8 Variances**

- a. The Development Review Board shall hear and decide upon requests for variances. The Board may grant a variance, and render a decision in favor of the appellant, only if *all* of the following facts are found, and the findings are specified in its written decision:
  - i. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located;

- ii. That because of such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is necessary to enable the reasonable use of the property;
  - iii. That the unnecessary hardship has not been created by the appellant;
  - iv. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and
  - v. That the variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan.
- b. On an appeal for a variance from the provisions of these regulations that is requested for a structure that is primarily a renewable energy resource structure, the Development Review Board may grant such variance only if it finds that all of the facts listed in 24 V.S.A. Section 4469(b) are found in the affirmative and specified in its decision.

### **13.9 Waivers**

- a. Requests for waivers of setback requirements are considered by the Development Review Board. The purpose of waivers is to allow for minor additions to a principal or accessory structure that would not be counter to the purpose of this Bylaw or the Village Plan, but which might not meet the standards for the granting of a variance. A waiver may be granted only to reduce dimensional requirements as provided below, and compliance with all other requirements of this Bylaw is required. The Development Review Board may grant a waiver provided all of the following conditions are satisfied:
  - i. The proposal is for an addition to an existing principal or accessory structure, and said addition does not increase the footprint of the structure by more than 5 percent, provided that the addition shall not increase the building footprint by more than 200 square feet.
  - ii. The addition is the minimum size that is necessary for it to serve its intended function.
  - iii. The addition is specifically intended to improve access for disabled persons, or to improve fire safety, or for a porch, deck, entryway, stairway, similar structure, or other minor addition to an existing building.

The Development Review Board may impose conditions regarding the design and screening of the addition to mitigate any impacts on neighboring properties. Development in the flood hazard area must meet all requirements of Section 10 of this bylaw.

### **13.10 Severability**

If any provision of this bylaw is held unconstitutional or invalid by a competent court, the remainder of this bylaw shall not be affected.

## **APPENDIX A: HISTORIC DISTRICT DESIGN STANDARDS (Sections 9.4 and 9.5 of this Bylaw)**

### **9.4 Commercial Design Standards**

All new commercial construction, additions, or exterior alterations to existing commercial buildings, including a change of exterior materials, colors, or site plan configuration on any property within the Historic District must conform to the following standards:

#### **9.4.1 General Requirements**

1. Preserve and rehabilitate existing structures within the Village whenever possible, in lieu of replacing them with new structures. The demolition of any historic structure within the district without Development Review Board approval is prohibited.
2. Protect existing historic structures by constructing additions which are generally similar in style and character to the original.
3. Encourage architectural designs which work together with neighboring buildings as a whole to reinforce the existing historic character of the neighborhood and reinforce the prominence of the existing “Village Center” as a discernable town center.
4. Limit the negative impacts of motor vehicle use, such as large parking areas.
5. Provide and maintain safe pedestrian access separated from motor vehicle passage, and encourage safe vehicle speeds.

#### **9.4.2 Site Planning and Landscaping**

1. New construction must work with and take design cues from the surrounding buildings and environment, rather than act as a stand-alone design entity.
2. New construction must be built up near the front of the lot and should attempt to align with the front setback of neighboring buildings as much as possible. [A in Fig. 3]  
In the event of a significant difference between neighboring setbacks, the new construction must align with the existing structure that is closest to the street. Alternately, the new construction should align with both neighboring buildings by providing a 'jog' or 'step' in the plane of the new front façade, or as directed by the Development Review Board. [A in Fig. 3]
3. The front façade(s) of new construction should be kept parallel to the street or front lot line. [B in Fig. 3]
4. New construction within the Village Center District should place as much of the building width at the front of the lot to maximize front façade exposure and define the street edge.

[C in Fig 3] The Development Review Board may require additional landscaping or screening to help visually reinforce this line. [D in Fig 3]

5. Corner lots in the Village Center District should try to place as much building mass near the intersection as possible to define the corner. [E in Fig. 3]
6. The primary building entry must always be placed at the front of the building, facing the street. If it is not possible to place the building entry directly on the front façade, it should be placed so as to be readily visible from the public way.
7. Commercially public areas such as retail space within the Village Center District should be placed near the front of the site. Less public areas and utilitarian functions such as warehouses, storage, service, dumpsters or loading dock areas should be placed at the rear of the building and shielded from view as directed by the Development Review Board. [F in Fig. 3] Such facilities should not be readily visible from the street or adjacent residential properties.
8. Garages and similar accessory buildings should be set back far from the road towards the rear of the site to minimize visibility from the public way. If possible, garage bay doors should be located and oriented so that they are not immediately visible from the street.
9. Off-street parking, if provided, must be placed at the side or rear of the lot and screened from view as directed by the Development Review Board. [G in Fig. 3] No off-street parking is permitted closer to the road than the front façade on commercial properties.
10. Commercial lots used for the purposes of selling or repairing motorized vehicles such as automobiles, trucks, motorcycles, tractors, farm or similar equipment may maintain an area outside in the front of the premises for the display of no more than one such vehicle at a time. All additional vehicles, including those under repair, should be kept in the side or back of the lot and screened from view from neighboring properties and the street.
11. Commercial properties must minimize the amount of curb cuts by having a single driveway in and out of the property. Secondary curb cuts from side roads may be permitted on larger commercial projects with approval by the Development Review Board.. [H in Fig. 3]
12. Adjacent commercial parking areas and properties should attempt to share a common driveway, curb cut, trash facility, or service area when site conditions allow.
13. Curb cuts and driveways should only be as wide as necessary to accommodate needed travel lanes. Curb radii should be kept to a 5 foot maximum.
14. New commercial developments must provide sidewalks along all road frontages of the property with a direct link to the primary building entry and any parking areas as directed by the Development Review Board.



15. New commercial developments must provide street trees and street lighting along all road frontages no less than every 50 feet on center [I in Fig. 3] or as directed by the Development Review Board.
16. All public access ways on commercially developed sites should comply with the Americans with Disabilities Act.
17. Parking lots and similarly paved areas should be designed in regular, rectangular shapes so as to only create as much paved/impervious surface area as absolutely necessary.
18. Parking areas should be broken up into groups of no more than 20 spaces per area maximum. These areas should be separated from each other with landscaping as directed by the village review board. [J in Fig. 3]
19. Provide trees, fences, walls, or landscaping and other screening to shield parking and service areas from adjacent lots as directed by the Development Review Board. [K in Fig.3]

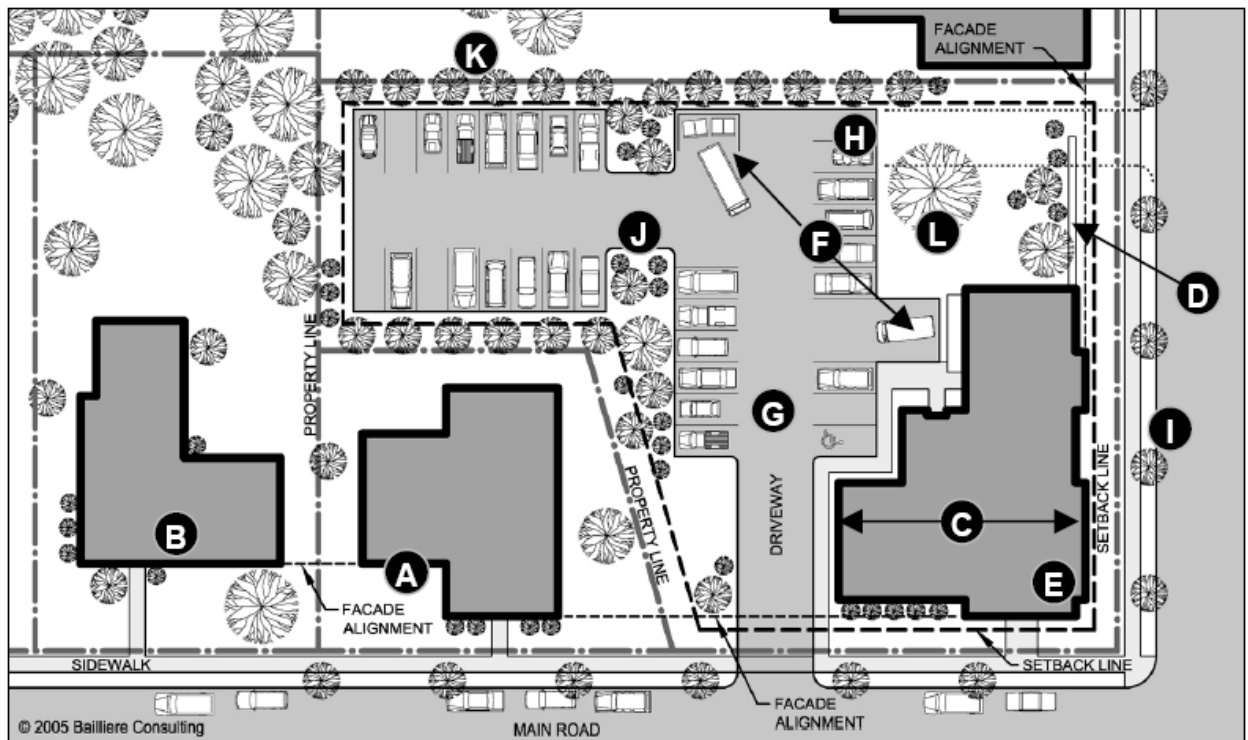


Figure 3. Site planning and landscaping standards for commercial uses.

20. Landscaped islands and other required green space should be consolidated into larger lawn areas. Narrow strips of grass or landscaping are discouraged.
21. Provide grass, trees, shrubs, flowers and similar landscaping in new site development, particularly in the front and highly visible areas of the property.
22. Chain link fences are prohibited in all areas except the rear yard of the property. Painted board, picket fences, stone walls, or similar designs in keeping with a historic neighborhood should be used in the front of the site instead.
23. Identify any existing historic features on the site such as stone or brick walkways, foundations, stone walls, iron or wood fences. These features should be shown on all plans during site plan review. Maintain these features in good condition and try to incorporate them into any new site plan configuration. The removal or relocation of such existing historic features is prohibited without approval of the Development Review Board.
24. Identify any existing trees on the property survey which have a caliper of eight inches or more. These trees should be shown on all plans during site plan review. Attempt to incorporate these existing trees into new site plan development to reduce waste and salvage older trees. [L in Fig. 3]



Figure 4. Most of the Village Center consists of buildings which are prominently placed close to the road and have no large parking lots visible to detract from the architecture.

#### **9.4.3 Height and Roof Design**

1. Maintain and repair historic or original roof forms, shapes, materials, patterns and colors in lieu of replacement with new construction whenever possible.
2. The addition of new dormers, gables or modified roof slopes to an existing historic building should be reserved for the rear or less visible sides of the structure.
3. The roof of any building within the Village Center District is expected to meet the sky gracefully and be in keeping with the overall scale of the structure itself.
4. Shed roofs, fake roof fronts, built-out roof frames which are hung from the facade and similar applied designs are prohibited as primary roof types within the Village Center District. [Figure 5]

5. New construction within the Village Center District must be a minimum of two stories (28 feet) tall at the front of the building lot, but may step down in back. This second story area must be composed of habitable space-not the product of a false façade design. The second story requirement may be waived by the Development Review Board for certain hazardous uses if it determines that a second floor occupancy would present an undue burden in meeting the fire or distance separations required by code.
6. The maximum parapet height is 4 feet unless required otherwise by code. Maximum building height is three stories (48 feet).
7. Commercial flat-roofed buildings of two or more stories should use subtle divisions that help to differentiate the base, middle, and top portions of the structure. [Figure 6]
8. New construction should attempt to match the general roof designs of adjacent buildings. For example, if the adjacent structures have sloped roofs, the new building ideally should have sloped roofs as well. The pitch of the primary roofs (not including dormers, entry canopies or similar elements) should generally match the roof pitch found on neighboring buildings as well.
9. New construction with sloped roofs should have a roof pitch of no less than 6:12 on primary roof areas (not including dormers, entry canopies or similar elements) or a maximum pitch of 12:12.
10. New construction with sloped roofs should place the primary facade as a gable-end facing the street, or have at least one area of façade as a gable-end facing the street which constitutes the full height of the building. [A in Fig.9]
11. New construction with sloped roofs should have overhangs at the eave and gable ends of the roof at least 6" deep. [B in Fig. 9]
12. The Development Review Board may require new construction which has a large amount of sloped roof running parallel to the street to include the use of dormers along the street side to help reduce the overall scale of the roof.
13. New flat roof structures should be capped by a parapet that is a sculptural expression of the primary façade material or wood. [A in Fig. 7]
14. The Design Review Board may require large roof areas to be broken up into smaller portions with breaks and fluctuations in the overall roof surface. [C in Fig. 9]
15. New roofs must be designed to divert the fall of rain and snow away from pedestrian areas such as walkways and doors. [D in Fig. 9]
16. Dormers, breaks in the roof line, entry roofs or other designs should be used to draw attention to the primary building entry. [E in Fig. 9]

17. Air handling units, condensers, condensers, satellite dishes, and other equipment placed on the roof must not be visible from the street, but should be located or screened by building elements so they are shielded from sight.
18. The Development Review Board may require roof mounted equipment to be visually minimized with painted colors and finish complementary to the overall building design.
19. Gas station canopies should be designed to match or integrate with the roof of the primary building.



Figure 5. Example of a roof design prohibited within the Village Center District.



Figure 6. Example of Base/Middle/Top design.



**Fig. 7: Acceptable parapet design.** The images above illustrate acceptable parapet designs for flat roof buildings. Parapets should be a sculptural expression of the façade which provides a “cap” to the building overall.



**Fig. 8: Unacceptable parapet design.** The images above illustrate unacceptable parapet designs for flat roof buildings. These examples show designs which are too thin and lack depth.



**Fig. 9: Roof Design.** The many different roof elements seen here help to break up and reduce the scale of an otherwise large house.

#### 9.4.4 Scale and Massing

1. The scale and massing of new construction must be sympathetic to the scale and massing of neighboring structures.
2. Overall building mass should be broken up into distinct parts by changes in the roof line and fluctuations in the plane of the facade to help create architecture which is more residential in scale. Primary massing elements of new construction should be no more than 40 feet wide, when measured along the front facade, without a transition to a different sized mass. Such transitions shall be defined as:
  1. A change in roof height which measures at least 18 vertical inches, [A in Fig 10] or
  2. A change in the plane of the facade which measures at least 24 horizontal inches in depth. [B in Fig. 10]
3. New construction of relatively larger commercial structures are required to further break up their primary façade(s) into various massing elements to help reduce the overall scale of the building using similar transitions as those noted in 9.4.4.2. These can be used to highlight entry points, exits, specialty areas, or separate places of business. [D in Fig. 10]
4. New construction should use similarly sized building materials and wall openings as those found on structures in the immediate area. [C in Fig. 10]
5. Natural, smaller scale materials should be used most importantly near the front of building and in pedestrian areas. Larger scale materials, if necessary, should be reserved for the rear of buildings and out of sight from the street.
6. Large scale design features, such as garage doors, are prohibited near the front of the building, except as required for emergency service buildings. Garage doors, loading docks, and similar large-scale elements must instead be placed at the side or rear of the building or lot.
7. Subtle facade articulations and designs that can create a more interesting façade are strongly encouraged (i.e., brickwork patterns or decorative wood trim) especially in highly visible areas. Non-public areas that are not readily visible may instead remain relatively simple.
8. Large areas of blank wall should be avoided, or should be reserved for the side or rear of buildings in the Village Center District. The Development Review Board may require such areas of blank wall be accentuated with design accents such as pilasters or other façade articulations if they are readily visible from the public way.
9. Front porches are encouraged, especially where porches are found on neighboring buildings. In lieu of a formal porch entry, a small entry roof which matches the design of the primary roof can be provided.

10. The infill, enclosure, or demolition of existing historic porches is prohibited.
11. New additions to existing historic buildings should follow these massing guidelines:
  1. The new addition should clearly maintain the original form of the existing building without blurring the line between old and new. [Figure 15]
  2. The new addition should ideally step back from the plane of the existing facade so that it clearly illustrates where the original (historic) building ends and the new addition begins. [Figure 17]
  3. The roof line of the new addition should ideally step down from the plane of the existing (historic) roof. [Figure 15]

#### **9.4.5 Proportioning and Rhythm**

1. Design elements of new construction must be in keeping with the proportions of similar design elements on adjacent structures whenever possible.
2. The relative proportions of design elements such as windows, bays or columns in a structure should be kept consistent throughout the design. Design elements which are being added to (or are part of an addition to) an existing building must be consistent with the proportions found in the original design. [Figure 20]
3. Vertically oriented proportions (those which tend to be taller than they are wide) used throughout a design are recommended over horizontally proportioned elements. Strong horizontal influences such as overly bold fascias or banding designs are prohibited.
4. Window designs should be divided to create a vertical orientation/proportion.
5. The proportion of structural elements such as posts or columns must be appropriate to the weight they appear to be carrying. [Figure 19]
6. The facade rhythm (spacing of windows and bays) on additions to existing structures should match the rhythm of the original building as closely as possible. The facade rhythm of new construction should attempt to be in keeping with the rhythm found on adjacent structures.
7. The use of an easily recognizable and regular pattern on the facade is recommended, especially on larger structures.
8. Breaks and fluctuations in the overall rhythm of a building are recommended to be used to draw attention to important areas such as the entry, or to simply relieve the monotony of very long facades.
9. The use of a front porch or colonnade is a very useful way of creating a strong rhythm, and also provides shelter for pedestrians. The expression on the facade of the structural bay system within is another way to display rhythm.

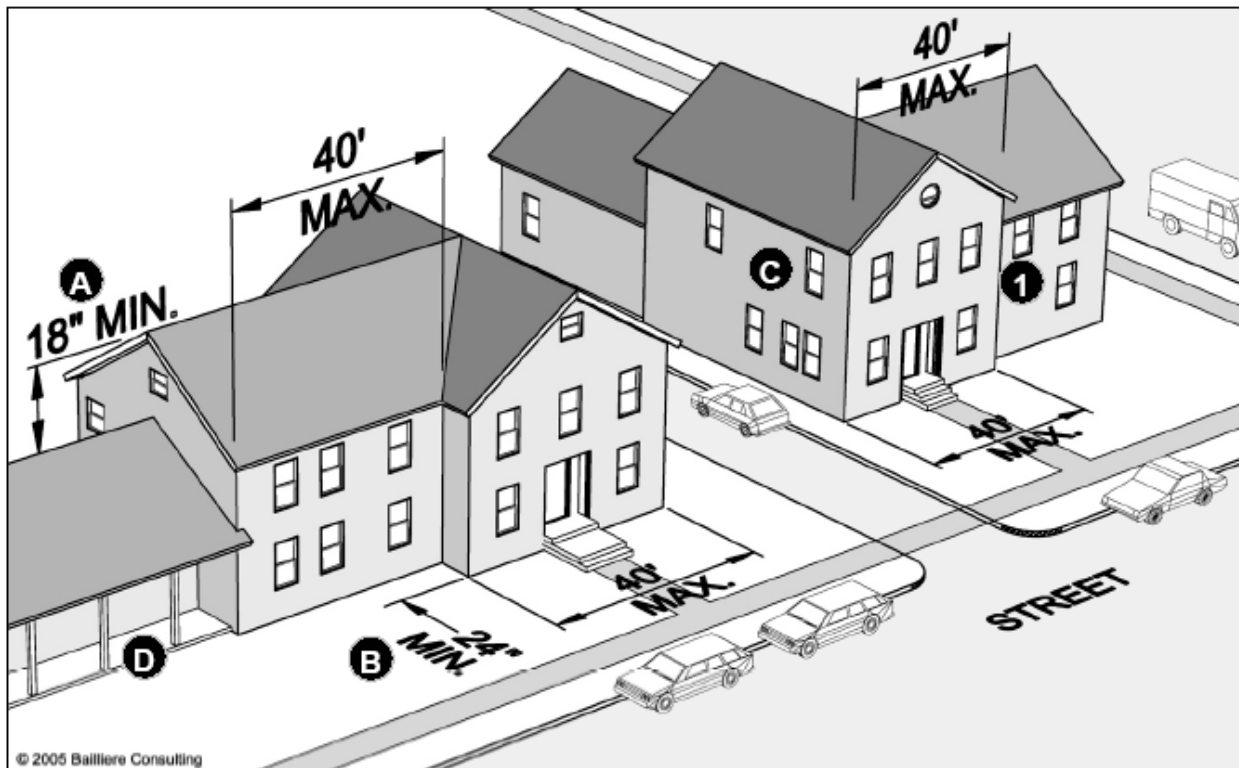


Fig. 10: The individual massing of a new building should be broken down into parts which are similar in size to those of the surrounding buildings. Changes in the plane of the façade or roofline help to break the mass into smaller parts, giving the architecture a more residential scale in keeping with the Village character.



Fig. 11 (Left): The historic train depot is an example of a grand building with small scale character.



Fig. 12: The boxy design of the local Post Office is an example of the simplified massing that the Village wants to avoid.



Fig. 13 (Left): The large porch and recessed entry ways on these buildings help to define the smaller scale massing of the architecture.





Fig. 14: Existing Building Before Addition.



Fig. 15: Proper Addition To Existing Building – This addition preserves the original scale and massing form of the older building, while still appearing to match the original character. The new addition is distinctly separate from the original building, and the line between old and new is visible.



Fig. 16: Improper Addition To Existing Building – This addition blurs the line between the old and the new construction and the original scale and massing of the original design is lost.

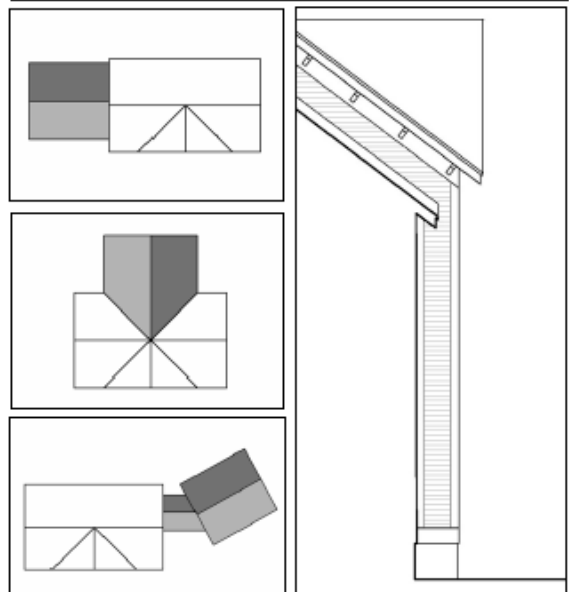
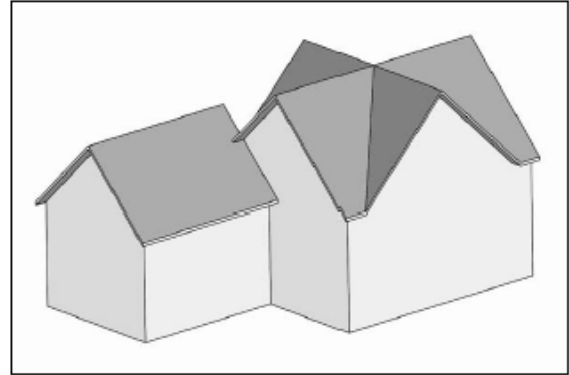


Fig. 17: (Images above) Examples of proper additions to an existing building – the original edges and massing of the older building are revealed by making the addition a separate massing element.

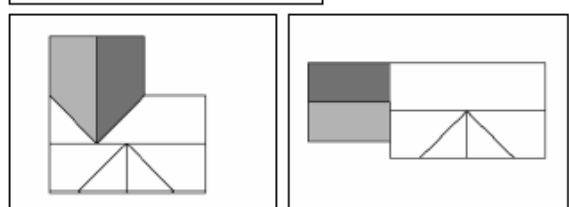
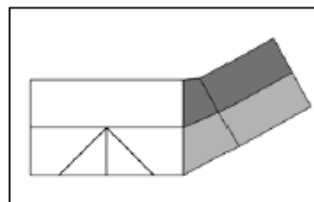


Fig. 18: Examples of improper additions – the line between old and new construction is lost.

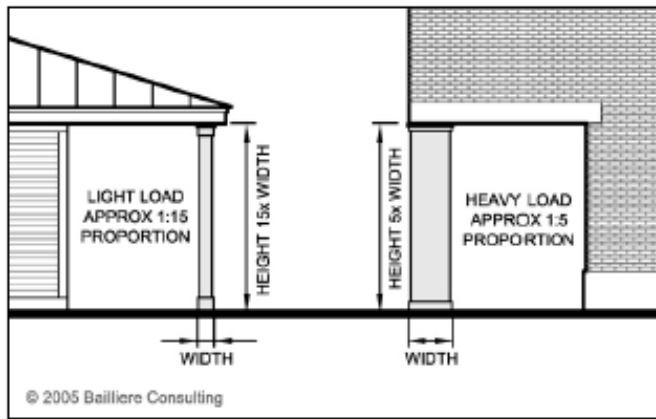


Figure 19. Relative proportions of structural elements



Fig. 21: Although the windows on the new addition don't exactly match the original windows on this bank, they are generally the same in style and proportion, helping to tie the design together.

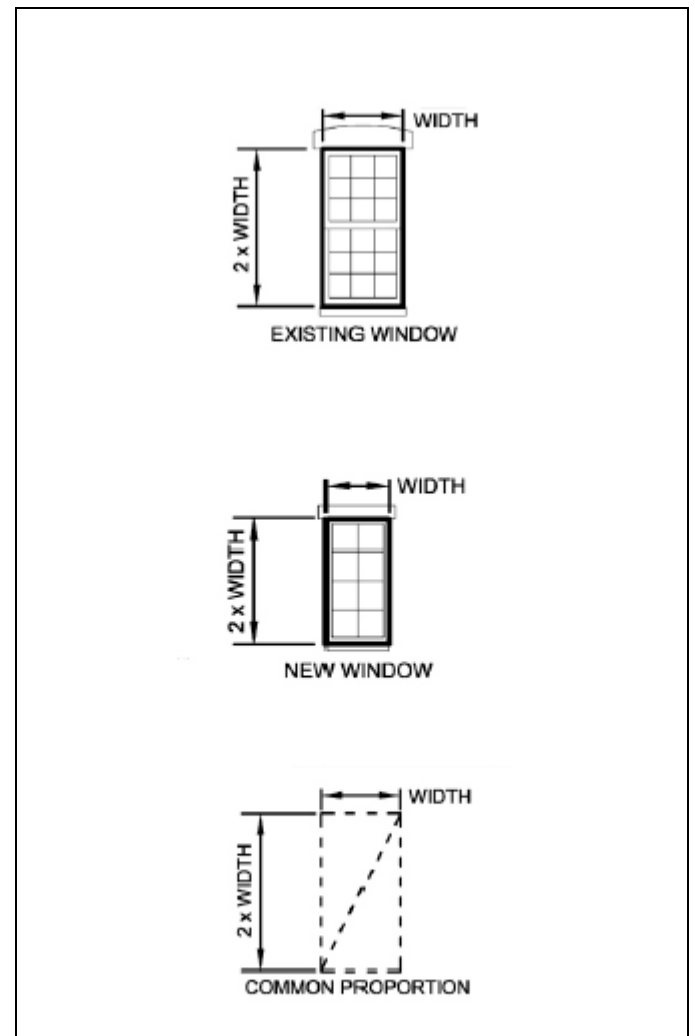


Fig. 20: Relative proportions. Although these two window examples are not the same size, they both share the common proportion of being twice as tall as they are wide.

#### **9.4.6 Fenestration, Doors, and Windows**

1. Existing window and door openings in the exterior façade of historic buildings should not be in-filled, covered or changed in size without Development Review Board approval.
2. Removal of original doors, windows, shutters or trim on an existing historic structure is prohibited without Development Review Board approval unless necessary. These items should be maintained and repaired whenever possible in lieu of replacement. If replacement is necessary, replace with like materials which have the same general design theme. The replacement designs do not have to be as detailed or ornate as the original materials. [A in Fig. 23]
3. Replacement windows on historic structures governed by this section should be constructed of wood whenever possible, and match the size and general style of the windows being removed.
4. New construction within must utilize at least simulated divided-lite window designs (which have both interior and exterior mullions separated by an internal spacer bar) for all non-display windows visible from the public street.
5. New window or door openings added to existing buildings should match the general size, scale, proportion, and trim of other openings on the facade.
6. Storm doors added to existing entryways should be inconspicuous and devoid of overly ornate designs which detract or obscure the original doorway. Storm doors with inappropriate ornament like scalloped edges around the glass, curving metal grilles, eagles, imitation hinges, or x-shaped bottom panels are prohibited. [A in Fig. 22] Storm doors should be constructed of wood or painted aluminum.
7. Storm windows and doors added to existing openings should be properly installed so that they are recessed inside the outer window trim. [B in Fig. 24 & 25] Storm windows and doors mounted directly onto the face of the trim are prohibited [B in Figure 22], unless installation in this manner is impossible. Storm windows and doors should be constructed of wood or painted aluminum. Bare aluminum frames are prohibited. [C in Fig. 22]
8. Window shutters, if used, should be properly mounted on both sides of a window so as to give the appearance that they would completely cover the opening when shut. Shutters mounted on only one side of a window, or on either side of a wide window, are prohibited. [A in Fig. 24]
9. Imitation shutters constructed of plastic, vinyl or other synthetic materials are prohibited.
10. Existing commercial storefronts should be maintained and repaired if possible in lieu of replacement. If replacement is necessary, replace with like materials which have the same general design theme, proportions, and scale. The replacement designs do not have to be as detailed or ornate as the original materials.

11. The amount of facade fenestration (size of openings, fluctuations, and depth) on new construction should be in keeping with the designs of neighboring buildings.
12. New construction must demonstrate ample articulation in the plane of the façade to be in keeping with the articulation found in neighboring buildings. Very flat, planar façade designs are prohibited. [Fig. 12]
13. New commercial construction must use an increased level of depth and/or larger facade openings at ground floor levels. Relatively smaller openings and less depth should be found on upper floor openings. [Figure 6]
14. Large ground-floor display window on new commercial construction within the Village Center District are limited to 5 feet wide per divided glass area, and must be separated by at least 6 inches of mullion. Individual window openings in the façade are limited to a total of 12 feet wide, and must be separated by at least 18 inches of façade. [A in Fig. 26]
15. Regular (Non-Display) window openings on new construction within the Village Center District are limited to four feet wide per window, and must be separated by at least 24 inches of façade. [B in Fig. 26]
16. Regular (Non-Display) windows on new construction within the Village Center District must not have a glass area exceeding 2 square feet without a simulated divided-lite division as per 9.4.6.4. [C in Fig. 26]
17. Window types on new construction should complement the types found on adjacent structures.
18. Casement windows are prohibited.
19. Openings in new masonry buildings should utilize a structural lintel or arch to express how it is carrying the weight above. [D in Fig. 26]
20. Covered porches and similar recessed front entry areas are encouraged on new construction. The level of fenestration and articulation around these entry areas is important.
21. Porch areas should not be used for outdoor merchandise display.
22. The use of porches, colonnades, canopies, or awnings are encouraged at selected places along a façade in new construction.
23. Blank areas of wall within the Village Center District should be articulated by expressing the structural bays of the building with pilasters or other detailing. See 9.4.4.8.

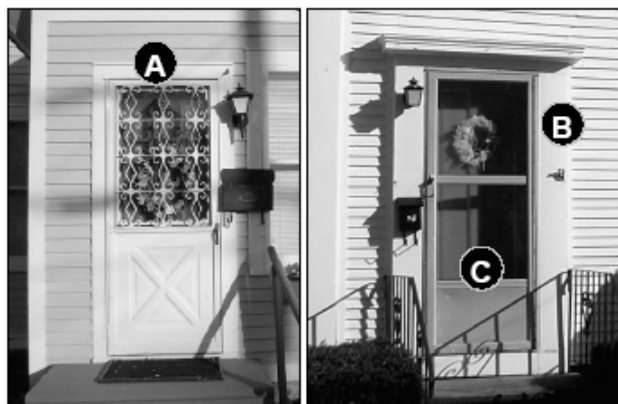


Fig. 22: Examples of improper storm doors. These metal storm doors are mounted on the surface of the wood trim. The white door includes unnecessary detail which does not match the historic design of the house, while the bare aluminum door should be painted.



Fig. 23: Examples of proper storm doors. These wood doors are mounted flush with the door trim, and do not contain any unnecessary detail which would detract from the original door design.



Fig. 24: Examples of improper window treatment. The window on the left has only one (non-functional) shutter, and the storm window is unfinished bare aluminum. The window on the right has a painted storm window, but it is mounted directly to the trim.

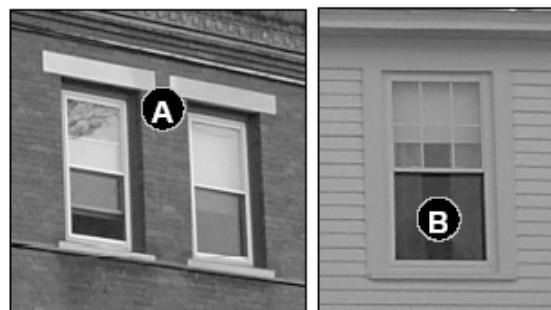


Fig. 25: Examples of proper window treatment. The brick building expresses the structural lintel above the window. Both photos show the storm window is painted and recessed within the window opening.

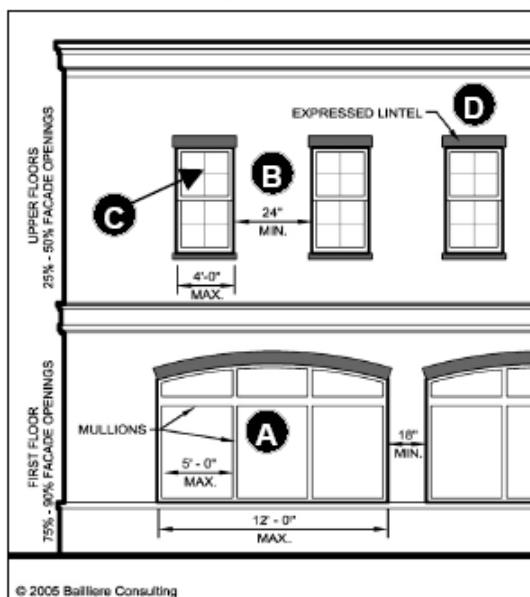


Fig. 26: Maximum window sizes for commercial construction.

### **9.4.7 Materials and Colors**

1. Maintain and repair existing materials whenever possible. If replacement is necessary, replace with like materials which have the same basic forms and proportions. The replacement designs do not have to be as detailed or ornate as the original materials. For a complete listing of all approved exterior materials, see the Exterior Materials Sheet – Section 9.4.8.
2. Whenever possible, use building materials that are commonly found in the adjacent structures and surrounding area.
3. The materials and colors used in new construction should complement the materials and colors found on adjacent buildings.
4. The materials and colors used in additions and renovations should complement or match those found on the original structure.
5. Exterior colors should be of a natural, muted shade.
6. Smaller scale, natural materials are required on new construction in areas of the building which are clearly visible from the public way.
7. When using more than one material on a façade, use one as the primary theme with the others used sparingly to complement or accentuate the design.
8. The size, scale, motif and use of materials for the front façade design should be kept consistent across the façade in order to tie the entire composition together.
9. The use of a variety of design styles and materials across the different facades of the same building is not recommended.
10. Special patterns appearing every now and then in the façade or roofing material are highly encouraged in new construction.
11. When using multiple colors on the exterior of the building, one color should be used as the dominant theme, with the other colors used more sparingly to create accents.
12. Brighter, more vibrant colors, if used, should generally be reserved for minor accents and highlights only, and should be used sparingly.
13. When making a transition from one material to the next, the change should occur at a hard edge or “bump-out” in the façade to help create a surface for the first material to terminate into before the second one begins.
14. Existing historic exterior wall materials should not be covered or concealed by new materials. Instead, existing materials should be repaired or restored whenever possible.

If repair is not reasonably possible, they should be replaced with similar materials only where necessary on an area by area basis with approval by the Development Review Board.



Figure 27. This creative pattern on a slate roof is an excellent way to enliven the design and break up the expanse of the roof.

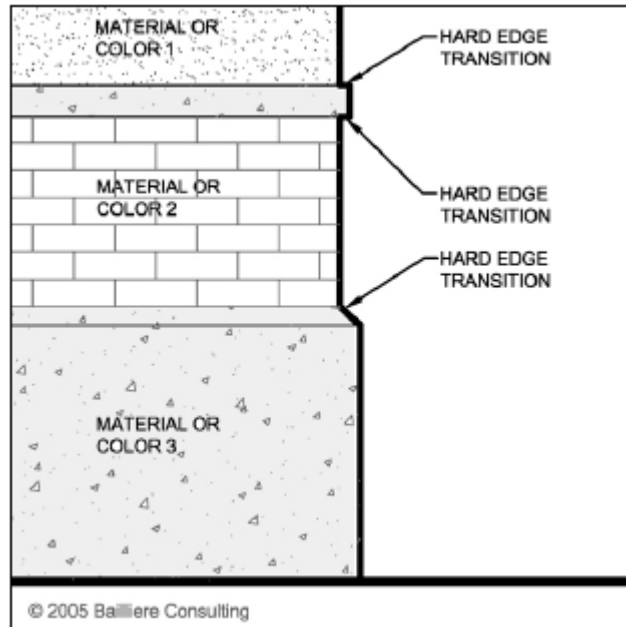


Figure 28. Transition of materials and colors.

**9.4.8 Exterior Materials List:** The following list is meant as a general guide for the exterior materials which should and shouldn't be used within the Historic District. The list is not meant to be all –inclusive or exhaustive. The Development Review Board must approve all exterior materials and colors prior to design approval. Approved materials must be used on the front façade and areas directly facing the street, and should be used on all other facades unless the Development Review Board grants a variance for selected surface areas.

Element	Recommended Materials	Not Recommended Materials
Facades	Common Red Brick	Multi-Colored/Multi-Toned Brick
	Bare (consistent tone)	Imitation Brick Siding, Asphalt Siding
	Painted (approved color)	Jumbo/Utility Brick
	Natural Stone / Imitation Stone	Concrete Masonry Units
	Wood Clapboard or Shingle (6" exposure max.)	Metal, Aluminum Siding
	Painted or Stained (approved color)	E.I.F.S. (a.k.a. Dryvit) / Stucco
	Wood Shingle (6" exposure max. unless matching existing)	Unfinished, Lumber Grade Wood
	Painted or Stained (approved color)	Vinyl Siding (Within Village Center)
	Imitation/Synthetic Wood	Concrete Panel / Precast Concrete
	PVC (approved color)	Wood Paneling
	Vinyl Siding (Allowed Outside Village Center Only)	Plywood, T-111, Lumber Grade Wood
	(approved color)	Composite, MDO/MDF Board
	Fiber Reinforced Cement Siding	Adirondack Siding
Trimwork	Wood - Finished Grade	Bare or Unfinished Wood
	Painted or Stained (approved color)	Lumber Grade
	Fiber Reinforced Cement	Aluminum (bare)
	Painted (approved Color)	
Windows & Doors	Anodized Aluminum Frame/Storefront	Bare Aluminum
	Painted Approved Color	Reflective Flashing
	Wood, Vinyl Clad, PVC Frame	
	Approved Color	
	Clear, Etched, Frosted or Stained Glass	Mirrored or Dark Tinted Glass
	Expressed Lintels Over Openings	Steel Plate or Angle Lintels
	Brick, Limestone, Colored or Bare Concrete	
Roof	Asphalt Shingle (approved color)	Imitation Slate (rubber)
	Imitation Slate (non-rubber)	
	Natural Slate	
	Standing Seam Metal	
	Small Seam Width, approved color	
	PVC, Modified Bitumen (Flat roof structures only)	
	Aluminum Eave Guard	
Other / Misc.	Canvas Awning	Plastic, Vinyl or Other Synthetic
	3 Color Max, approved colors	Reflective Flashing
	Concrete Sidewalks / Walkways (poured)	Asphalt Sidewalks / Walkways
	Stamped Concrete	
	Wood / Synthetic Wood Porches, Boardwalks, Ramps	
	Parapet & Chimney Caps	
	Stone, Limestone or Precast Concrete	
	Metal Flashing (approved color)	



#### 9.4.9 Lighting

1. Lighting used for signs, landscaping, walkways, parking lots, canopies and security should include full shielding or recessed fixtures which project light downward only, with no exposed bulbs readily visible from the public way.
2. Light pollution should be kept to a minimum. The light from exterior lighting fixtures should not spill over into adjacent properties, and should provide only as much illumination as required on the target surfaces.
3. Internally lit canopies and awnings are prohibited.
4. Incandescent [and halogen] lamps are recommended for typical exterior uses. Fluorescent, metal halide, mercury vapor, low pressure sodium, high pressure sodium, neon and laser lights are discouraged.
5. Freestanding street, sidewalk, and parking area lights, if used, should be no more than 8 to 12 feet high. Walkway lights should be no taller than 3 feet. Attempts should be made to chose fixtures which have an older, historic design, and do not appear overly modern. [Fig. 30]
6. Lighting used for landscaping and signs should be downward-facing and fully shielded so that bare bulbs are not readily visible. [Fig. 31]
7. Lighting used for facade illumination should be kept to minimal use only. The lamps may be either directly upward or downward facing and should be fully shielded so that bare bulbs are not readily visible.
8. Higher levels of lighting are only needed in certain areas for security, and should be limited to remote areas not visible from the street, such as a rear employee entrance or back door.
9. Exterior gas station canopy lights should be fully recessed within their housing so as to focus their illumination directly downward onto the pump pad below. The fixtures or their glare should not be visible from neighboring properties or the street.

Lighting Use	Maximum Footcandles (Horizontal)	Average Footcandles (Horizontal)	Minimum Footcandles (Horizontal)	Uniformity Ratio
Public Sidewalk	5.0 fc	2.5 fc	0.6 fc	4:1
Parking Lot	5.0 fc	3.0 fc	1.0 fc	4:1
Security	5.0 fc	3.6 fc	2.0 fc	4:1
Façade	3.0 fc	2.0 fc	-	-
Landscaping	2.0 fc	1.5 fc	-	-

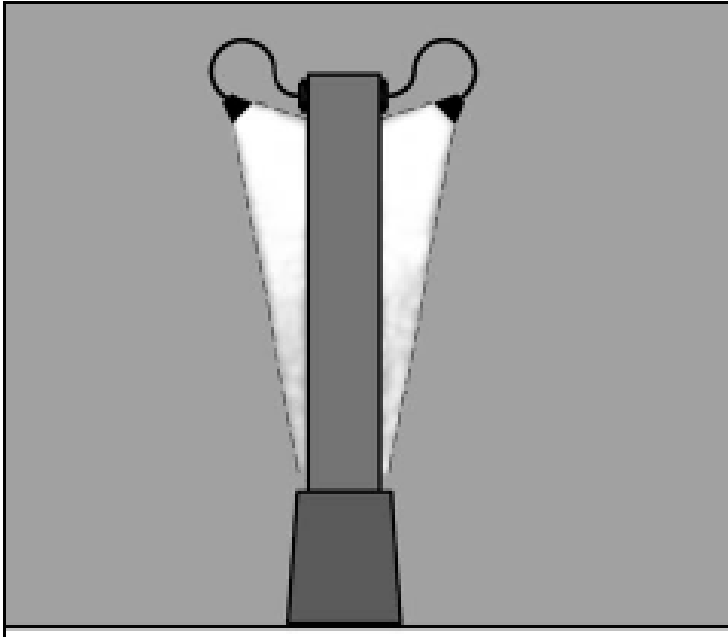


Figure 30. Exterior sign and landscape lighting. Signs and façade lettering should only be illuminated by downward facing lamps which are fully shielded. All exterior lighting should be shielded to reduce glare.

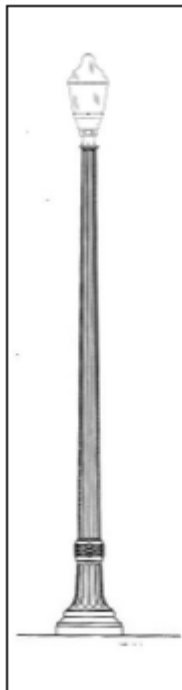


Figure 31. Exterior lighting. The Village prefers the use of traditional style lamps which have a more historic character similar to the one shown above.

## **9.5 Residential Design Standards for New Construction and Substantial Additions**

All new residential home construction, including additions which are greater than 50% of the habitable floor area of the existing home, and accessory buildings in excess of 250 square feet, must comply with the requirements of Section 9.5. Other additions or modifications to residential properties are exempt from these requirements but are encouraged to use these standards as general design recommendations whenever possible.

These standards also apply to residential structures which are rebuilt in the event of a loss due to fire or other destruction unless it is determined by the Development Review Board that the new construction is significantly similar in overall design and appearance to the structure being replaced.

Specific requirements of this section may be waived by the Development Review Board if they determine that the non-conforming elements of the design meet the spirit and intent of the design standards.

The standards outlined in this section are not retroactive, and only apply to changes within the district after the date that these standards have been adopted into the Village Bylaws. The boundaries of the Historic District, and the Village Center District within it, are illustrated in Section 9.1.

### **9.5.1 General Requirements**

1. Preserve and rehabilitate existing historic structures within the Village whenever possible, rather than replacing them with new structures. The demolition of any historic structure within the district without Development Review Board approval is prohibited.
2. Protect existing historic structures by constructing any additions to them which are generally similar in style and character to the original building.
3. Encourage architectural designs which work together with neighboring buildings as a whole to reinforce the existing historic character of the neighborhood and reinforce the prominence of the existing "Village Center" as a discernible town center.

### **9.5.2 Site Planning and Landscaping**

1. New construction must work with and take design cues from the surrounding buildings and environment, rather than act as a stand-alone design entity.
2. New construction must be built up near the front of the lot and should attempt to align with the front setback of neighboring buildings on the street as much as possible.  
[A in Fig. 33] In the event of a significant difference between neighboring setbacks, the new construction must align with the existing structure that is closest to the street or as directed by the Development Review Board.

3. The front façade(s) of new construction should be kept parallel to the street or front lot line. [B in Fig. 33]
4. New residential construction within the Village Center District should place as much of the building width at the front of the lot to maximize front façade exposure and define the street edge. [C in Fig 33]
5. The primary building entry must always be placed at the front of the building, facing the street. If it is not possible to place the building entry directly on the front façade, it should be placed so as to be readily visible from the public way.
6. Garages and similar accessory buildings should be set back far from the road toward the rear of the site to minimize visibility from the public way. [D in Fig. 33] If possible, garage bay doors should be located and oriented so that they are not immediately visible from the street. [E in Fig. 33]
7. New residential driveways and curb cuts should only be one lane wide near the front of the site. If additional driveway width is required to access a multi-bay garage or parking area, the driveway may be widened in back to accommodate this. [F in Fig. 33] Such areas should be reserved for the rear of the site behind the primary building and screened from view from the street.
8. Identify any existing historic features on the site such as stone or brick walkways, foundations, stone walls, and iron or wood fences. These features should be shown on all plans during site plan review. Maintain these features in good condition and try to incorporate them into any new site plan configuration. The removal or relocation of such existing historic features is prohibited without Development Review Board approval. [G in Fig. 33]
9. Identify any existing trees on the property survey which have a caliper of 8 inches or more. These trees should be shown on all plans during site plan review. Attempt to incorporate these existing trees into new site plan development to reduce waste and salvage older trees.
10. Provide grass, trees, shrubs, flowers and similar landscaping in new site development, particularly in the front and highly visible areas of the property. [H in Fig. 33]

### **9.5.3 Height and Roof Design**

1. New construction should attempt to match the general roof designs of adjacent buildings. For example, if the adjacent structures have sloped roofs, the new building ideally should have sloped roofs as well. The pitch of the primary roofs (not including dormers, entry canopies or similar elements) should generally match the roof pitch found on neighboring buildings as well.

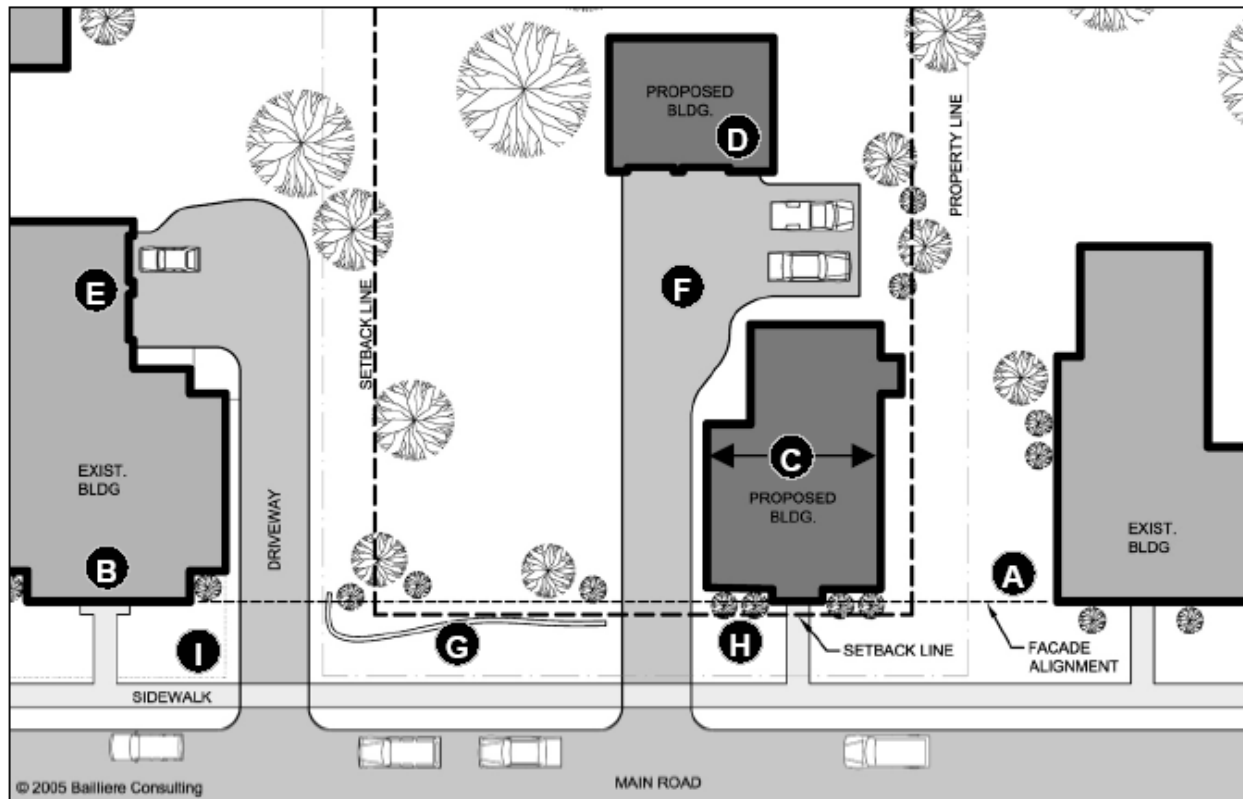


Figure 33. Residential site planning.

2. New construction with sloped roofs should have a roof pitch of no less than 6:12 on primary roof areas (not including dormers, entry canopies or similar elements) or a maximum pitch of 12:12.
3. Additions to existing buildings should attempt to match the roof style, slope, materials and eave profile of the original building.
4. New construction with sloped roofs should place the primary facade as a gable-end facing the street, or have at least one area of facade as a gable-end facing the street which constitutes the full height of the building. [A in Fig. 9]
5. New construction with sloped roofs should have overhangs at the eave and gable ends of the roof at least 6" deep.
6. The Development Review Board may require new construction which has a large amount of sloped roof running parallel to the street to include the use of dormers along the street side to help reduce the overall scale of the roof.
7. New flat roof structures should be capped by a parapet that is a sculptural expression of the primary facade material or wood. [A in Fig. 7]

8. The Development Review Board may require large roof areas to be broken up into smaller portions with breaks and fluctuations in the overall roof surface.
9. Dormers, breaks in the roof line, entry roofs or other designs should be used to draw attention to the primary building entry [E in Fig. 9]

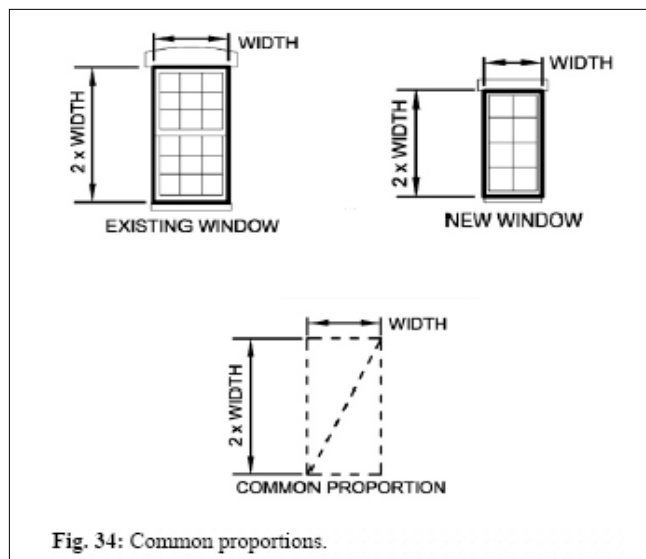
#### **9.5.4 Scale and Massing**

1. The scale and massing of new construction must be sympathetic to the scale and massing of neighboring structures.
2. Overall building mass should be broken up into distinct parts by changes in the roof line and fluctuations in the plane of the facade to help create architecture which is more residential in scale. Primary massing elements of new construction should be no more than 40 feet wide, when measured along the front facade, without a transition to a different sized mass. Such transitions shall be defined as:
  - a) A change in roof height which measures at least 18 vertical inches, [A in Fig 10] or
  - b) A change in the plane of the facade which measures at least 24 horizontal inches in depth [B in Fig. 10]
3. New construction should use similarly sized building materials and wall openings as those found on structures in the immediate area.
4. Natural, smaller scale materials should be used, most importantly near the front of building and in pedestrian areas. Larger scale materials, if necessary, should be reserved for the rear of buildings and out of sight from the street.
5. Subtle facade articulations and designs that can create a more interesting façade are strongly encouraged (i.e., brickwork patterns or decorative wood trim) especially in highly visible areas. Areas not visible from the street may remain relatively simple, if necessary.
6. Large areas of blank wall are prohibited on the front facade areas.
7. Front porches are encouraged especially where porches are found on neighboring buildings. In lieu of a formal porch entry, a small entry roof which matches the design of the primary roof can be provided.
8. Any new additions governed by section 7.3 to an existing residence should follow these massing guidelines:
  1. The new addition should clearly maintain the original form of the existing building without blurring the line between old and new. [Figure 15]

2. The new addition should ideally step back from the plane of the existing facade so that it clearly illustrates where the original building ends and the new addition begins. [Figure 17]
3. The roof line of the new addition should ideally step down from the plane of the existing roof. [Figure 15]

### 9.5.5 Proportioning and Rhythm

1. Design elements of new construction must be in keeping with the proportions of similar design elements on adjacent structures whenever possible.
2. The relative proportions of design elements such as windows, bays or columns in a structure should be kept consistent throughout the design. Design elements which are part of an addition to an existing building must be consistent with the proportions found in the original design. [Figure 34]
3. Vertically oriented proportions (those which tend to be taller than they are wide) used throughout a design are recommended over square or horizontally proportioned elements. Strong horizontal influences in a design such as overly bold fascias or repeated banding patterns are prohibited.
4. The proportion of structural elements such as posts or columns must be appropriate to the weight they appear to be carrying. [Figure 19]
5. The facade rhythm (spacing of windows or bays) on additions to existing structures should match the rhythm of the original building as closely as possible. The facade rhythm of new construction should attempt to be in keeping with the rhythm found on adjacent structures.
6. The use of an easily recognizable and regular pattern on the facade is recommended.

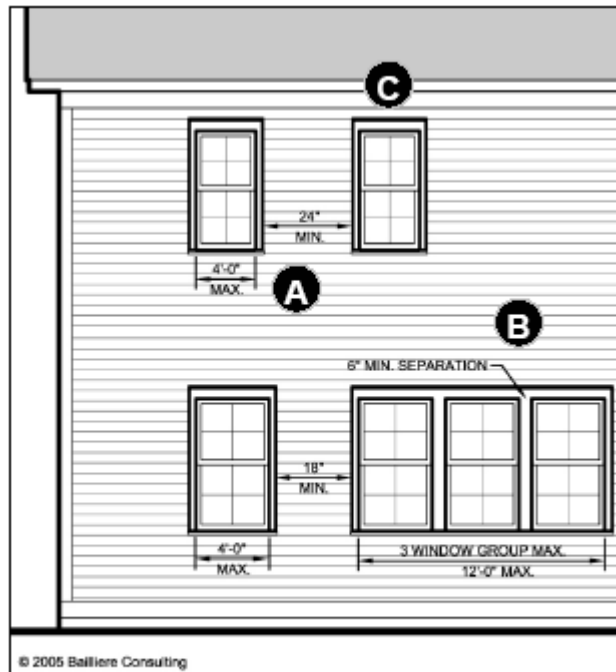


### 9.5.6 Fenestration, Doors, and Windows

1. Storm doors on new residential construction with inappropriate ornament like scalloped edges around the glass, curving metal grilles, eagles, imitation hinges, and x-shaped bottom panels are prohibited. [A in Fig. 22] Storm doors should be constructed of wood, or painted aluminum.
2. Storm windows and doors should be properly installed so that they are recessed inside the outer window trim. [Fig. 23 & 25] Storm windows and doors mounted directly onto the face of the trim are prohibited [B in Figure 22]. Storm windows and doors should be constructed of wood or painted aluminum. Bare aluminum frames are prohibited. [C in Fig. 22]
3. Window shutters should be used on any new additions to buildings which are currently using shutters. The shutters should attempt to match the general style of those on the original building, and should be used consistently on all facades. Additions to buildings which do not have shutters should avoid placing them on the windows of the new construction.
4. Window shutters, if used, should be properly mounted on both sides of a window so as to give the appearance that they would completely cover the opening when shut. Shutters mounted on only one side of a window, or on either side of a wide window, are prohibited. [A in Fig. 24]
5. Imitation shutters constructed of plastic, vinyl or other synthetic materials are prohibited on new residential construction within the Historic District.
6. The amount of fenestration (size of window openings, fluctuations and depth) in a facade on a new addition should be in keeping with the facade of the existing building whenever possible.
7. New residential construction must demonstrate ample articulation in the plane of the façade to be in keeping with the articulation found in neighboring buildings. Very flat, planar façade designs are prohibited.
8. Window types on new construction should complement the types found on adjacent historic structures. Double-hung windows with simulated divided-lites are encouraged. Casement windows, picture windows and “snap-in” simulated window grills are prohibited on the front facade of new residential construction or additions.
9. The size of individual windows on the front facade of new residential construction should be no more than 4 feet wide, and separated by at least 24 inches. [A in Fig 35] Clusters of up to three individual windows may be grouped together provided that they are separated from each other by at least 6 inches of trim and the total width does not exceed 12 feet in length. [B in Fig. 35]



10. Wood trim found around the door and window frames of new residential construction should use a wider trim dimension at the head than is used on the sides.  
[C in Fig. 35]



**Fig. 35:** Maximum window sizes for new residential construction.

11. Covered porches and similar recessed front entry areas are encouraged on new construction. Uncovered porches or patios are prohibited on the front facade.

### 9.5.7 Materials and Colors

1. See Section 9.4.8 for a listing of recommended and prohibited exterior building materials within the Historic District. The Development Review Board must approve all materials and colors.
2. Whenever possible, use building materials that are commonly found in the adjacent historic structures and surrounding area.
3. The materials and colors used in new construction should complement the materials and colors found on adjacent buildings.
4. The materials and colors used in additions should complement or match those found on the original structure.
5. Exterior colors should be of a natural, muted shade.

6. When using multiple colors on the exterior of the building, one color should be used as the dominant theme, with the other colors used more sparingly to create accents.
7. Brighter, more vibrant colors, if used, should generally be reserved for minor accents and highlights only, and should be used sparingly.
8. Smaller scale, natural materials such as brick or wood clapboard are required on new residential construction.
9. The use of a variety of design styles or materials across the different facades of the same building is prohibited.
10. Special patterns used every now and then in the façade or roofing material are highly encouraged in new construction. [Fig. 27]
11. When making a transition from one material to the next, the change should occur at a hard edge or “bump-out” in the façade to help create a surface for the first material to terminate into before the second one begins.

## APPENDIX B: Flood Hazard Area Definitions

**Act** means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. 4001-4128.

**Actuarial rates**--see risk premium rates.

**Administrator** means the Federal Insurance Administrator.

**Agency** means the Federal Emergency Management Agency, Washington DC.

**Alluvial fan flooding** means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and, unpredictable flow paths.

**Apex** means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

**Applicant** means a community which indicates a desire to participate in the Program.

**Appurtenant structure** means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

**Area of future-conditions flood hazard** means the land area that would be inundated by the 1-percent-annual-chance (100-year) flood based on future-conditions hydrology.

**Area of shallow flooding** means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of special flood-related erosion hazard** is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

**Area of special flood hazard** is the land in the flood plain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, 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 regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard."

**Area of special mudslide** (i.e., mudflow) hazard is the land within a community most likely to be subject to severe mudslides (i.e., mudflows). The area may be designated as Zone M on the FHBM. After the detailed evaluation of the special mudslide (i.e., mudflow) hazard area in preparation for publication of the FIRM, Zone M may be further refined.

**Base flood** means the flood having a one percent chance of being equaled or exceeded in any given year.

**Base Flood Elevation** (BFE) is the elevation of the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year. On the Flood Insurance Rate Map the elevation is usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or the average depth of the base flood, usually in feet, above the ground surface.

**Basement** means any area of the building having its floor subgrade (below ground level) on all sides.

**Breakaway wall** means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

**Building**--see structure.

**Chargeable rates** mean the rates established by the Administrator pursuant to section 1308 of the Act for first layer limits of flood insurance on existing structures.

**Chief Executive Officer** of the community (CEO) means the official of the community who is charged with the authority to implement and administer laws, ordinances and regulations for that community.

**Coastal high hazard area** means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

**Community** means any State or area or political subdivision thereof, or any Indian tribe or authorized tribal organization, or Alaska Native village or authorized native organization, which has authority to adopt and enforce flood plain management regulations for the areas within its jurisdiction.

**Contents coverage** is the insurance on personal property within an enclosed structure, including the cost of debris removal, and the reasonable cost of removal of contents to minimize damage. Personal property may be household goods usual or incidental to residential occupancy, or merchandise, furniture, fixtures, machinery, equipment and supplies usual to other than residential occupancies.

**Criteria** means the comprehensive criteria for land management and use for flood-prone areas developed under 42 U.S.C. 4102 for the purposes set forth in part 60 of this subchapter.

**Critical feature** means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

**Curvilinear Line** means the border on either a FHBM or FIRM that delineates the special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazard areas and consists of a curved or contour line that follows the topography.

**Deductible** means the fixed amount or percentage of any loss covered by insurance which is borne by the insured prior to the insurer's liability.

**Developed area** means an area of a community that is:

(a) A primarily urbanized, built-up area that is a minimum of 20 contiguous acres, has basic urban infrastructure, including roads, utilities, communications, and public facilities, to sustain industrial, residential, and commercial activities, and

(1) Within which 75 percent or more of the parcels, tracts, or lots contain commercial, industrial, or residential structures or uses; or

(2) Is a single parcel, tract, or lot in which 75 percent of the area contains existing commercial or industrial structures or uses; or

(3) Is a subdivision developed at a density of at least two residential structures per acre within which 75 percent or more of the lots contain existing residential structures at the time the designation is adopted.

(b) Undeveloped parcels, tracts, or lots, the combination of which is less than 20 acres and contiguous on at least 3 sides to areas meeting the criteria of paragraph (a) at the time the designation is adopted.

(c) A subdivision that is a minimum of 20 contiguous acres that has obtained all necessary government approvals, provided that the actual "start of construction" of structures has occurred on at least 10 percent of the lots or remaining lots of a subdivision or 10 percent of the maximum building coverage or remaining building coverage allowed for a single lot subdivision at the time the designation is adopted and construction of structures is underway. Residential subdivisions must meet the density criteria in paragraph (a)(3).

**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.

**Director** means the Director of the Federal Emergency Management Agency.

**Eligible community or participating community** means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program.

**Elevated building** means, for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

**Emergency Flood Insurance Program or emergency program** means the Program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

**Erosion** means the process of the gradual wearing away of land masses. This peril is not per se covered under the Program.

**Exception** means a waiver from the provisions of part 60 of this subchapter directed to a community which relieves it from the requirements of a rule, regulation, order or other determination made or issued pursuant to the Act.

**Existing construction** means, for the purposes of determining rates, structures for which the ``start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. ``Existing construction" may also be referred to as ``existing structures."

**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 a community.

**Existing structures** see existing construction.

**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).

**Federal agency** means any department, agency, corporation, or other entity or instrumentality of the executive branch of the Federal Government, and includes the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

**Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions** means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration.

**Financial assistance** means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance, other than general or special revenue sharing or formula grants made to States.

**Financial assistance for acquisition or construction purposes** means any form of financial assistance which is intended in whole or in part for the acquisition, construction, reconstruction, repair, or improvement of any publicly or privately owned building or mobile home, and for any machinery, equipment, fixtures, and furnishings contained or to be contained therein, and shall include the purchase or subsidization of mortgages or mortgage loans but shall exclude assistance pursuant to the Disaster Relief Act of 1974 other than assistance under such Act in connection with a flood. It includes only financial assistance insurable under the Standard Flood Insurance Policy.

**First-layer coverage** is the maximum amount of structural and contents insurance coverage available under the Emergency Program.

**Flood or Flooding means:**

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- (3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

**Flood elevation determination** means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

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

**Flood Hazard Boundary Map (FHBM)** means 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** means the insurance coverage provided under the Program.

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

**Flood Insurance Study** see flood elevation study.

**Flood plain or flood-prone area** means any land area susceptible to being inundated by water from any source (see definition of "flooding").

**Flood plain management** means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and flood plain management regulations.

**Flood plain management regulations** means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**Flood protection system** means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

**Flood proofing** means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**Flood-related erosion** means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

**Flood-related erosion area or flood-related erosion prone area** means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

**Flood-related erosion area management** means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works, and flood plain management regulations.



**Floodway**--see regulatory floodway.

**Floodway encroachment lines** mean the lines marking the limits of floodways on Federal, State and local flood plain maps.

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

**Freeboard** means a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. ``Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

**Functionally** dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**Future-conditions flood hazard area, or future-conditions floodplain**--see Area of future-conditions flood hazard.

**Future-conditions hydrology** means the flood discharges associated with projected land-use conditions based on a community's zoning maps and/or comprehensive land-use plans and without consideration of projected future construction of flood detention structures or projected future hydraulic modifications within a stream or other waterway, such as bridge and culvert construction, fill, and excavation.

**General Counsel** means the General Counsel of the Federal Emergency Management Agency.

**Highest adjacent grade** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Historic Structure** means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of 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:

- (1) By an approved state program as determined by the Secretary of the Interior or
- (2) Directly by the Secretary of the Interior in states without approved programs.

**Independent scientific body** means a non-Federal technical or scientific organization involved in the study of land use planning, flood plain management, hydrology, geology, geography, or any other related field of study concerned with flooding.

**Insurance adjustment organization** means any organization or person engaged in the business of adjusting loss claims arising under the Standard Flood Insurance Policy.

**Insurance company or insurer** means any person or organization authorized to engage in the insurance business under the laws of any State.

**Levee** means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

**Levee System** means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**Lowest Floor** means 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 Sec. 60.3.

**Mangrove stand** means an assemblage of mangrove trees which are mostly low trees noted for a copious development of interlacing adventitious roots above the ground and which contain one or more of the following species: Black mangrove (*Avicennia Nitida*); red mangrove (*Rhizophora Mangle*); white mangrove (*Languncularia Racemosa*); and buttonwood (*Conocarpus Erecta*).

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

**Manufactured home park or subdivision** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Map** means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Agency.

**Mean sea level** means, 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.

**Mudslide (i.e., mudflow)** describes a condition where there is a river, flow or inundation of liquid mud down a hillside usually as a result of a dual condition of loss of brush cover, and the subsequent accumulation of water on the ground preceded by a period of unusually heavy or sustained rain. A mudslide (i.e., mudflow) may occur as a distinct phenomenon while a landslide is in progress, and will be recognized as such by the Administrator only if the mudflow, and not the landslide, is the proximate cause of damage that occurs.

**Mudslide (i.e., mudflow) area management** means the operation of an overall program of corrective and preventive measures for reducing mudslide (i.e., mudflow) damage, including but not limited to emergency preparedness plans, mudslide control works, and flood plain management regulations.

**Mudslide (i.e., mudflow) prone area** means an area with land surfaces and slopes of unconsolidated material where the history, geology and climate indicate a potential for mudflow.

**New construction** means, 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 a floodplain management regulation adopted by a community and includes any subsequent improvements 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 floodplain management regulations adopted by a community.

**100-year flood** see base flood.

**Participating community, also known as an eligible community**, means a community in which the Administrator has authorized the sale of flood insurance.

**Person** includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

**Policy** means the Standard Flood Insurance Policy.

**Premium** means the total premium payable by the insured for the coverage or coverages provided under the policy. The calculation of the premium may be based upon either chargeable rates or risk premium rates, or a combination of both.

**Primary frontal dune** means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

**Principally above ground** means that at least 51 percent of the actual cash value of the structure, less land value, is above ground. Program means the National Flood Insurance Program authorized by 42 U.S.C. 4001 through 4128.

**Program deficiency** means a defect in a community's flood plain management regulations or administrative procedures that impairs effective implementation of those flood plain management regulations or of the standards in Sec. 60.3, 60.4, 60.5, or 60.6.

**Project cost** means the total financial cost of a flood protection system (including design, land acquisition, construction, fees, overhead, and profits), unless the Federal Insurance Administrator determines a given "cost" not to be a part of such project cost.

**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.

**Reference feature** is the receding edge of a bluff or eroding frontal dune, or if such a feature is not present, the normal high-water line or the seaward line of permanent vegetation if a high-water line cannot be identified.

**Regular Program** means the Program authorized by the Act under which risk premium rates are required for the first half of available coverage (also known as "first layer" coverage) for all new construction and substantial improvements started on or after the effective date of the FIRM, or after December 31, 1974, for FIRM's effective on or before that date. All buildings, the construction of which started before the effective date of the FIRM, or before January 1, 1975, for FIRMs effective before that date, are eligible for first layer coverage at either subsidized rates or risk premium rates, whichever are lower. Regardless of date of construction, risk premium rates are always required for the second layer coverage and such coverage is offered only after the Administrator has completed a risk study for the community.

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

**Remedy a violation** means to bring the structure or other development into compliance with State or local flood plain management regulations, or, if this is not possible, to reduce the

impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

**Risk premium rates** mean those rates established by the Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with section 1307 of the Act and the accepted actuarial principles. ``Risk premium rates" include provisions for operating costs and allowances.

**Riverine** means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Sand dunes** mean naturally occurring accumulations of sand in ridges or mounds landward of the beach.

**Scientifically incorrect.** The methodology(ies) and/or assumptions which have been utilized are inappropriate for the physical processes being evaluated or are otherwise erroneous.

**Second layer coverage** means an additional limit of coverage equal to the amounts made available under the Emergency Program, and made available under the Regular Program.

**Servicing company** means a corporation, partnership, association, or any other organized entity which contracts with the Federal Insurance Administration to service insurance policies under the National Flood Insurance Program for a particular area.

**Sheet flow area**--see area of shallow flooding.

**60-year setback** means a distance equal to 60 times the average annual long term recession rate at a site, measured from the reference feature.

**Special flood hazard area**--see ``area of special flood hazard".

**Special hazard area** means an area having special flood, mudslide (i.e., mudflow), or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, A99, AH, VO, V1-30, VE, V, M, or E.

**Standard Flood Insurance Policy** means the flood insurance policy issued by the Federal Insurance Administrator, or an insurer pursuant to an arrangement with the Administrator pursuant to Federal statutes and regulations.

**Start of Construction** (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a

structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**State** means any State, the District of Columbia, the territories and possessions of the United States, the Commonwealth of Puerto Rico, and the Trust Territory of the Pacific Islands.

**State coordinating agency** means the agency of the state government, or other office designated by the Governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program in that state.

**Storm cellar** means a space below grade used to accommodate occupants of the structure and emergency supplies as a means of temporary shelter against severe tornado or similar wind storm activity.

**Structure** means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure, for insurance purposes, means:

(1) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site;

(2) 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

(3) 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 paragraph (3) of this definition, or a gas or liquid storage tank.

**Subsidized rates** mean the rates established by the Administrator involving in the aggregate a subsidization by the Federal Government.

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

**Substantial improvement** means any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of this bylaw, the cost of which, over three years or over the period of a common plan of development, equals or exceeds 50 percent of the

market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or

(2) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure's continued designation as a “historic structure”.

**A common plan of development** is the refurbishment of a structure over a period of time. Such work might be planned unit by unit.

**30-year setback** means a distance equal to 30 times the average annual long term recession rate at a site, measured from the reference feature.

**Technically incorrect.** The methodology(ies) utilized has been erroneously applied due to mathematical or measurement error, changed physical conditions, or insufficient quantity or quality of input data.

**V Zone**--see “coastal high hazard area.”

**Variance** means a grant of relief by a community from the terms of a flood plain management regulation.

**Violation** means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Sec. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

**Water surface elevation** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

**Zone of imminent collapse** means an area subject to erosion adjacent to the shoreline of an ocean, bay, or lake and within a distance equal to 10 feet plus 5 times the average annual long-term erosion rate for the site, measured from the reference feature.