

Town of Duxbury, Vermont

Land Development Regulations

**As Amended
March 1, 2022**

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ARTICLE I – PURPOSE AND GENERAL RULES OF APPLICATION

SECTION 1 – ENACTMENT AND PURPOSE

1.1. ENACTMENT

The Zoning and Flood Hazard Regulations for the Town of Duxbury are hereby established in accordance with the Vermont Municipal and Regional Planning and Development Act, Title 24 V.S.A. Chapter 117 (the Act). The Zoning Regulations shall be entitled “Town of Duxbury, Vermont Land Development Regulations.” This Regulation sets forth the text and zoning map constituting the Town of Duxbury, Vermont Zoning and Flood Hazard Regulations.

1.2. PURPOSE

The purpose of these Regulations is to:

- A. Implement the Duxbury Town Plan;
- B. Protect and enhance the quality of the Town’s soils, forests, waters, primary agricultural lands, and other natural resources;
- C. Minimize the subdivision of large forested areas by encouraging and providing incentives for sound subdivision design.
- D. Encourage the most desirable and appropriate use of land and to minimize the adverse impact of one land use upon another;
- E. Facilitate the construction of affordable, safe and energy efficient housing for all Duxbury residents.
- F. Maintain Duxbury’s rural character by concentrating small scale commercial uses and residential development near services.
- G. Provide for business and commercial uses, including food-based and agricultural operations, that do not adversely affect the character of residential neighborhoods or natural resources.
- H. Protect property and infrastructure from flooding by implementing applicable principles of the Duxbury Hazard Mitigation Plan.
- I. Enable the installation and use of appropriately sited and sized renewable energy projects.

SECTION 2 – RULES OF APPLICATION

- A. The application of the Regulations is subject to the Act.
- B. Except where the Regulations specifically provide to the contrary, the Regulations are not intended to repeal, annul or in any way impair any regulations or permits previously adopted. Existing uses and structures are grand-fathered unless a person or parcel of land is already in violation of a permit or a prior regulation.
- C. Where the Regulations impose greater restriction upon the use of a structure or land than required by any other statute, ordinance, rule, regulation, permit, easement or agreement, the provisions of the Regulations shall control.
- D. The Regulations shall not relieve any person or entity from the obligation to comply with all applicable state or federal regulations, rules, statutes, or permits.

- E. The Regulations, including any maps incorporated by reference, may be amended according to the requirements and procedures established in 24 V.S.A. §§ 4441 and 4442.
- F. In the event that any part of these Regulations, or their application, is found to be invalid by a court of competent jurisdiction, such determination shall not invalidate any other part of these Regulations.
- G. Effective date: In accordance with §4442(c)(2) of the Act, these Regulations shall take effect immediately upon adoption by the Town of Duxbury, through an affirmative vote of legal voters of the Town by Australian ballot at a regular or special meeting duly warned and held.

SECTION 3 – GENERAL PERMIT REQUIREMENTS

3.1 PROHIBITION - GENERAL RULE

A person shall not construct, develop, erect, extend, install, modify, use, or occupy any land, building, structure or part thereof, in any manner which is not in conformity with the Regulations.

3.2 PROJECTS AND ACTIVITIES WHICH REQUIRE A ZONING PERMIT

A zoning permit shall be required prior to any land development as defined by statute and Article VIII of these regulations, including but not limited to the following activities:

- A. The construction or reconstruction of any building or structure, whether for personal residential, or commercial use;
- B. The installation of a mobile home or trailer, whether for residential or storage purposes, but not including a temporary trailer in use at an operational construction site;
- C. The construction or reconstruction of any accessory structure such as a garage, utility shed or barn;
- D. The enlargement, extension, or relocation of any existing structure, including the construction or enlargement of decks and porches;
- E. The structural alteration of any existing structure if the exterior dimensions will be changed;
- F. The subdivision of a parcel of land, to ensure that all lots will conform to the minimum lot size and road frontage requirements of this Regulation;
- G. The change of use of any existing structure or parcel of land, except that benign home occupations will not require a permit (See Article V, Section 1-1.4);
- H. Commercial operations;
- I. Gravel or soil excavation for sale;
- J. The installation of a permanent commercial or institutional sign;
- K. All development within the Special Flood Hazard Area;
- L. The installation of a wind turbine unless preempted by the Vermont Public Service Board, in accordance with Title 30 V.S.A. Chapter 5.
- M. Use of a Recreational Vehicle or Travel Trailer as a residence outside of a permitted Recreational Vehicle or Travel Trailer park for a period exceeding two (2) consecutive months and up to six (6) months in one calendar year.

3.3 PROJECTS AND ACTIVITIES WHICH DO NOT REQUIRE A ZONING PERMIT

A zoning permit shall not be required for the following activities, including but not limited to:

- A. Modifications to a building interior provided there is no change in use;
- B. Repairs and Minor changes which will not affect the exterior dimensions or the height of the structure;
- C. Accepted agricultural and silviculture practices, including the construction of farm structures, as defined by the Secretary of Agriculture and the Commissioner of Forests, Parks and Recreation, with the exception of processing or sawmill activities (Sec. 24, §4413 (d); conducted in accordance with the latest versions of the Vermont Agency of Agriculture Required Agricultural Practices; and the Department of Forests, Parks and Recreation Acceptable Management Practices (AMPs).
- D. Benign home occupations as defined in Article V, Section 1-1.4;
- E. The construction or installation of a temporary structure, including temporary signs, provided the temporary structure meets set back requirements;
- F. The construction of up to 4 structures accessory to a dwelling, such as a dog house, child's play house, shed or similar structure, for each of which the floor area does not exceed 100 square feet and the height does not exceed 10 feet, or in the case of tree-houses the floor area shall not exceed 100 square feet, provided that such accessory structures comply with all setback requirements for the district in which they are located. This exemption shall not be interpreted to allow for the attachment of 100 square feet accessory structures to other structures over a period time, in order to avoid permit requirements;
- G. Fences less than six and a half (6.5) feet in height or walls less than 4 ft in height;
- H. The construction or re-construction of an on-site wastewater system pursuant to the issuance or amendment of a Vermont Potable Water Supply and Wastewater System Permit.
- I. Non-commercial Electric Vehicle Charging stations

ARTICLE II – ZONING DISTRICTS

INTRODUCTION

- A. The zoning districts were created on the basis of:
 - 1. the desire to centralize growth within certain areas of the town;
 - 2. the capacity of soils and topography to accommodate development; and
 - 3. historical growth and development patterns in Duxbury.
- B. The Town of Duxbury is hereby divided into the following zoning districts:
 - 1. Ecological Reserve Lands - lands with an elevation of 2500 feet and above.
 - 2. Forest Management and Wildlife Lands - Lands with an elevation above 1500 feet and below 2500 feet
 - 3. Forest-Residential-Recreation- Lands between 1500 ft in elevation and the

4. Rural- Residential-Agricultural Districts
Rural-Residential-Agricultural I and II- Lands as depicted on the official zoning map; generally, lands along Route 100, Crossett Hill, and Turner Hill are in the RRA District 1; lands along the River Road are in RRA District II.
 5. Village – traditionally known as Duxbury Corners, bounded by State Farm District lands on the east and west, the south end of Main Street (Old Route 100) and Duxfarm Estates; and the north end by the Winooski River and Crossett Brook, the borders of Waterbury and Moretown; and as shown on the official zoning map.
 6. State Farm District – as shown on the official zoning map
 7. Flood Hazard Overlay Areas - areas designated as special flood hazards on the national Flood Insurance Program maps for the Town of Duxbury and any subsequent revisions.
- C. Unless otherwise defined in the Regulation above, the official Zoning map located in the Town Clerk’s office is adopted as part of these regulations and shall be the final authority as to the current zoning status of the land and water areas, buildings and other structures in the Town. If uncertainty exists or a dispute arises with respect to any boundary of the zoning districts, the applicant may appeal to the Development Review Board in accordance to Article III, Section 8. The Development Review Board shall determine the location of the boundary of a zoning district.
- D. **Allowed Uses** are those uses allowed without needing a permit.
- E. **Permitted Uses** are those uses which are allowed in a district with a permit as long as a project or use complies with the requirements of these regulations.
- F. **Conditional Uses** are those uses which may be allowed in a district subject to review by the Development Review Board, in accordance with the standards and procedures set forth in these regulations.
- G. To the extent that a use refers to residential dwelling units, a dwelling unit is limited to one unit per minimum lot size, unless otherwise stated in these Regulations.

SECTION 1 – ECOLOGICAL RESERVE LANDS DISTRICT – above 2500 feet
(described on page 82 of the Town Plan)

1.1 ALLOWED USES (not requiring a permit)

1. Agricultural uses
2. Forestry, not to include permanent processing and sawmill operations (portable sawmills and chipping operations are permitted),
3. Non-commercial recreation
4. Non-commercial wildlife refuge

1.2 CONDITIONAL USES

1. Structures associated with non-commercial recreation, specifically, trail shelters and warming huts

1.3 STANDARDS: MINIMUM LOT SIZE: 25 ACRES

1.4 SPECIAL CONSIDERATIONS

1. Impact on wildlife habitat and natural vegetative cover
2. Erosion control

SECTION 2 – FOREST MANAGEMENT AND WILDLIFE DISTRICT – 1500 feet to 2500 feet (described on page 83 of the Town Plan)

2.1 ALLOWED USES (not requiring a permit)

1. Agricultural uses
2. Forestry uses, not to include permanent processing and sawmill operation (portable sawmills and chipping operations are permitted),
3. Non-commercial recreation
4. Non-commercial wildlife refuge
5. Benign home occupations

2.2 PERMITTED USES (requiring a zoning permit)

1. Single family dwellings and accessory garages
2. Accessory structures, such as, green houses and tool, utility or wood sheds more than 100 sq ft.
3. Seasonal dwellings
4. Family day care home occupations and residential care or group home occupations (See Article V, Section 1-1.4, Article VI Section 2)
5. Accessory dwelling units as defined in 24 §4412(1)(E) and Article VI Section 2 of these regulations.
6. Bed and Breakfast establishments of two bedrooms or less

2.3 CONDITIONAL USES (with DRB review)

1. Home occupations (See Article V, Section 1)
2. Wind turbines of more than 130 ft
3. Bed and Breakfast establishments of more than two bedrooms
4. Public utilities
5. Cemeteries
6. Forestry structures associated with permanent processing and sawmill operations
7. Gravel, rock, sand or soil extraction for commercial use
8. Residential PUD

2.4 STANDARDS

Minimum lot size	25 acres per use
Minimum property line set back	40 feet
Minimum road set back	50 feet (from center of the traveled portion of all town roads)
Minimum street or road frontage	150 feet

SECTION 3 – FOREST RESIDENTIAL RECREATION DISTRICT - below 1500 feet, down to rural residential ag districts) (described on page 84 of the Town Plan)

3.1 ALLOWED USES (not requiring a permit)

1. Agriculture
2. Forestry
3. Non-commercial recreation

4. Non-commercial wildlife refuge
5. Benign home occupations

3.2 PERMITTED USES (requiring a permit)

1. Single family dwellings and accessory garages
2. Accessory dwelling units as defined in 24 §4412(1)(E) and Article VI Section 2 of these regulations
3. Accessory structures, such as, green houses and sheds more than 100 sq ft in area
4. Seasonal dwellings
5. Family day care home occupations and residential care or group home occupations (See Article V Section 1-1.4; Article VI Section 2)
6. Bed and Breakfast establishments of two bedrooms or less
7. Wind turbines 130 feet in height or less.

3.3 CONDITIONAL USES (requires DRB review)

1. Home occupations (See Article V, Section 1-1.4) except family day care home occupations and residential care or group home occupation
2. Public utilities
3. Cemeteries
4. Forestry structures associated with permanent processing and sawmill operations,
5. Gravel, rock or sand extraction for sale or commercial use
6. Residential only PUD (See Article IV, Section 1)
7. Wind turbines in excess of 130 feet in height.
8. Bed and Breakfast establishments of more than two bedrooms

STANDARDS

Minimum lot size	5 acres per use
Minimum property line set back	40 feet
Minimum road set back	50 feet (from center of the traveled portion of all town roads).
Minimum street or road frontage	150 feet

SECTION 4 – RURAL RESIDENTIAL AGRICULTURAL I AND II (described on page 84 of the Town Plan)

4.1 ALLOWED USES (not requiring a permit)

1. Agricultural Uses
2. Forestry
3. Noncommercial recreation
4. Noncommercial wildlife refuge
5. Benign home occupations

4.2 PERMITTED USES (requires a permit)

1. Single and two-family dwellings and accessory garages
2. Accessory structures, such as, green houses and sheds more than 100 sq ft in area
3. Seasonal dwellings
4. Churches, convents and parish houses
5. Educational institutions
6. Accessory dwelling units as defined in 24 §4412(1)(E) and Article VI Section 2

- of these regulations
- 7. Family day care home occupations and residential care or group home occupations (See Article V Section 1-1.4, Article VI Section 2)
- 8. Wind turbines 130 feet in height or less
- 9. Bed and breakfast establishments of one or two bedrooms.

4.3 CONDITIONAL USES (requires DRB review)

- 1. Home occupations (See Article V, Section 1-1.4) except family day care home occupations and residential care or group home occupations
- 2. Day care facilities which do not qualify as home occupations (See Article V, Sections 1 and 2)
- 3. Forestry structures associated with permanent processing and sawmill operations,
- 4. Bed and Breakfast establishments of more than two bedrooms
- 5. Community and social service organizations
- 6. Restaurants and diners
- 7. Refreshment or produce stands
- 8. Retail Stores
- 9. Storage Units (See Article V, Section 11)
- 10. Cultural centers
- 11. Health and wellness related businesses
- 12. Pet grooming and boarding
- 13. Automotive repair shop
- 14. Cemeteries
- 15. Public utilities
- 16. Commercial recreation facilities
- 17. Travel trailer park
- 18. PUD (See Article IV, Section 1)
- 19. Multifamily dwellings, condominiums and similar developments in PUDs only
- 20. Medical clinics, nursing homes or congregate elder housing
- 21. Motel, hotels, inns
- 22. Mobile home parks in PUDs only
- 23. Extraction of sand, gravel or soil for sale or commercial use
- 24. Light industrial or commercial uses which are under 7,500 square feet
- 25. Light industrial or commercial uses between 7,500 and a maximum of 20,000 square feet, in a PUD, subject to the following:
 - a. The overall density shall not exceed 7,500 square feet per acre.
 - b. The total permitted square footage of all commercial or light industrial buildings in a single project shall not exceed a maximum of 20,000 square feet. Except that the total permitted square footage may be waived for a PUD involving the adaptive reuse of a building constructed prior to 1970.
- 26. Wind turbines in excess of 130 feet in height.

4.4 STANDARDS

Minimum lot size	1 acre per use
	1/4 acre per unit for hotels, motels, inns, travel

Maximum building coverage	trailer parks 35% per acre (except in a PUD, or otherwise noted)
Minimum property line set back	20 feet
Minimum road set back	50 feet (from center of the traveled portion of all town roads, 75 feet from the center of Route 100 right-of-way)
Minimum street or road frontage	100 feet; 200 feet for Route 100

4.5 SPECIAL CONSIDERATIONS

Rural Residential Agricultural Districts are primarily residential.

Size and density of the project shall be consistent with the Town Plan.

Commercial activity shall be appropriate to the surrounding area and small enough so as not to place undue demands on the natural and fiscal resources of the Town.

SECTION 5 – VILLAGE (described on page 86 of the Town Plan)

5.1 ALLOWED USES (not requiring a permit)

1. Agricultural Use
2. Forestry
3. Benign Home occupations
4. Non-commercial recreation

5.2 PERMITTED USES (requires a zoning permit)

1. Single and two-family dwellings and garages
2. Accessory dwelling units as defined in 24 §4412(1)(E) and Article VI Section 2 of these Regulations.
3. Accessory structures, such as, green houses and tool, utility or wood sheds
4. Churches, convents and parish houses
5. Educational institutions
6. Family day care home occupations and residential care or group home occupations (See Article V, Section 1-1.4, Article VI Section 2)
7. Bed and Breakfast establishments of one or two bedrooms
8. Wind turbines 130 feet in height or less.

5.3 CONDITIONAL USES (requires DRB review)

1. Home Occupations except for family day care home occupations and residential care or group home occupations (See Article V, Section 1-1.4)
2. Day care facilities which do not qualify as home occupations
3. Bed and Breakfast establishments of more than two bedrooms
4. Community and social service organizations
5. Restaurants and diners
6. Refreshment or produce stands
7. Cultural centers
8. Retail stores

9. Cemeteries
10. Storage Units (See Article V, Section 12)
11. Public utilities
12. Commercial recreation facilities
13. Multi-family dwellings, condominiums and similar developments in PUDs only. (See Article IV, Section 1)
14. Medical clinics, nursing homes or congregate elder housing
15. Motel, hotels, inns
16. Mobile home parks in PUDs only
17. Extraction of sand, gravel or soil (See Article III, Section 7) for sale or commercial use
18. Light industrial or commercial uses which are under 7,500 square feet
19. Light industrial or commercial uses between 7,500 and a maximum of 20,000 square feet, in a PUD, subject to the following:
 - a. The overall density shall not exceed 7,500 square feet per acre.
 - b. The total permitted square footage of all commercial or light industrial buildings in a single project shall not exceed a maximum of 20,000 square feet. Except that the total permitted square footage may be waived for a PUD involving the adaptive reuse of a building constructed prior to 1970.
20. Wind turbines in excess of 130 feet in height.

5.3 STANDARDS

Minimum lot size	1/2 acre per use 1/4 acre per unit for hotels, motels, inns, travel trailer parks
Minimum property line set back	10 feet
Minimum road set back	40 feet (from center of the traveled portion of all town roads)
Minimum street or road frontage	50 feet or 20 feet right-of-way

5.4 SPECIAL CONSIDERATIONS

1. Village District is primarily residential
2. Size and density of the project shall be consistent with the Town Plan
3. Commercial activity shall be appropriate to the surrounding area and small enough so as not to place undue demands on the natural and fiscal resources of the Town.

SECTION 6 – STATE FARM (described on page 86 of the Town Plan)

6.1 PURPOSE

The purpose of the regulations regarding the State Farm District are to facilitate limited development on the former State Farm property, with an emphasis on conservation and agriculture, as set forth in the “Vermont State Farm in Duxbury Preliminary MASTER PLAN” developed by the Vermont State Farm in Duxbury Project Committee (hereinafter MASTER PLAN), and as depicted on Sheet 4, PRELIMINARY MASTER PLAN dated November 20, 1995 prepared by the Cavendish Partnership for the Vermont Department of State Buildings (hereinafter PLAN). The State Farm District shall incorporate all lands as depicted on the official Zoning Map for the Town of Duxbury.

6.2 SPECIAL PROVISIONS

1. Site Plan approval shall be required for all development except single family residences on approved lots. See Article III, Section 4.
2. Site Plan approval is required for a Planned Unit Development, but not for the individual lots which are part of that Planned Development.
3. For development other than single family dwellings, Site Plan Approval is required whenever the proposed development includes creation or modification to structures, parking areas, driveways, roads, or curb cuts.

6.3 SUB-AREAS

- A. This district shall be divided into the following sub-areas as shown on the PLAN and described in the MASTER PLAN:
1. Crossett Hill-127-acre segment,
 2. River Road--92 acres,
 3. Plateau—34-acre segment,
 4. Wetland—101- acre segment,
 5. Middle School—34-acre segment,
 6. Barn/Buildings—37-acre segment, and
 7. Cemetery—11- acre segment.

- B. Development in each sub-area shall be consistent with the specific provisions as set forth below.

6.4 CROSSETT HILL - 127 ACRE SEGMENT

All residential development shall be a part of a Planned Unit Development (PUD) approved by the Development Review Board in accordance with Article IV, Section 1 of these Regulations.

- A. ALLOWED USES (not requiring a permit)
1. Agriculture
 2. Sustained yield forestry, not including permanent processing and sawmill operations (portable sawmills and chipping operations allowed)
 3. Education not requiring structures
 4. Noncommercial recreation not requiring structures
- B. PERMITTED USES (requiring a permit)
1. Single family residences and Accessory dwelling units as defined in 24 §4412(1)(E) and Article VI Section 2 of these regulations, located within a PUD only
 2. Accessory structures, such as greenhouses, tool, utility or wood sheds larger than 100 sq ft
 3. Family day care home occupations and residential care or group home occupations (See Article V, Section 1-1.4; Article VI, Section 2)
 4. Wind turbines 130 feet in height or less.
- C. CONDITIONAL USES (requiring DRB review)
1. Home Occupations except for family day care home occupations and residential care or group home occupations (See Article V, Section 1-1.4)
 2. Bed and breakfasts

3. Structures serving outdoor education
4. Structures serving outdoor recreation
5. Wind turbines in excess of 130 feet in height.

D. STANDARDS

Density:	One Dwelling unit per ten (10) acres.
Lot Size:	No less than 2 acres for residential uses in an approved PUD, no less than 25 acres for all other uses
Minimum Street or Road Frontage:	100 feet
Minimum Side and Rear Yard Setback:	20 feet for residential uses.
Minimum Front Yard Setback:	50 feet from centerline of traveled portion of Crossett Hill Road.

6.5 RIVER ROAD- 92 ACRE SEGMENT

Land in this district has been permanently conserved through a conservation easement, held by the Duxbury Land Trust.

A. ALLOWED USES (not requiring a permit)

1. Agriculture
2. Forestry
3. Non-commercial recreation not involving structures
4. Education not involving structures

B. STANDARDS

Minimum Lot Size:	25 acres.
Minimum Street or Road Frontage:	Not applicable.
Minimum side and Rear Yard Setback:	Not applicable.
Minimum Front Yard Setback:	Not applicable.

6.6 PLATEAU-- 34 ACRE SEGMENT

A. ALLOWED USES (not requiring a permit)

1. Recreation not requiring structures
2. Agriculture
3. Forestry

B. CONDITIONAL USES

1. Extraction of sand, gravel, and soil
2. Municipal uses
3. Wind turbines of any height

STANDARDS

Lot Size:	No less than 10 acres for Municipal uses, no less than 25 acres for all other uses.
Minimum street or road frontage:	200 feet.
Minimum side and rear yard setback:	40 feet or as set forth in Section 6.4 for extraction of sand, gravel or soil.
Minimum Front Yard Setback:	200 feet from centerline of traveled portion of road.

6.7 WETLAND--101 ACRE SEGMENT

Land in this district has been permanently conserved for agriculture or forestry by the Duxbury Land Trust.

A. ALLOWED USES (not requiring a permit)

1. Agriculture
2. Sustained yield forestry, not including processing and sawmill operations (portable sawmills and chipping operations are permitted)
3. Education not requiring structures
4. Recreation not requiring structures
5. Temporary structures serving outdoor recreation, education or agriculture

NO PERMITTED OR CONDITIONAL USES

STANDARDS

Minimum Lot Size:	25 acres
Minimum Street or Road Frontage:	Not applicable
Side and Rear Yard Setback:	Not applicable
Minimum Front Yard Setback:	Not applicable.

6.8 MIDDLE SCHOOL -- 34 ACRE SEGMENT

Site Plan Approval is required in accordance with all provisions of Article III, Section 4 of these regulations.

A. PERMITTED USES

1. Public school facilities
2. Public recreation facilities
3. Accessory structures

B. CONDITIONAL USES

1. Wind turbines of any height

STANDARDS

Minimum Lot Size:	10 acres per use.
Minimum Street or Road Frontage:	200 feet.
Minimum Side and Rear Yard Setback:	40 feet.
Minimum Front Yard Setback:	70 feet.
Minimum Setback from Route 100:	200 feet from centerline of traveled portion of road, except that a small portion of outdoor recreation facilities may intrude on this setback if well screened from the road

6.9 BARN/BUILDINGS--37 ACRE SEGMENT

A. All development shall be a part of a Planned Unit Development (PUD) approved by the Development Review Board in accordance with Article IV, Section 2.8 and 2.9 of these Regulations. Accordingly, Site Plan and Design Review Approval is required in accordance with all provisions of Article III, Section 4 of these regulations.

B. PURPOSE. The purpose of this provision is to create a compact village center containing a mixture of commercial and public uses, and using the middle school recreation fields as a village green.

C. ALLOWED USES - agriculture

D. PERMITTED USES – accessory structures

E. CONDITIONAL USES

1. Small scale commercial, offices, public and semi-public uses consistent with the concept of a village center including but not limited to day care facilities not qualifying as home occupations, churches, community and social service

organizations, restaurants and diners, retail stores, fire stations, light industry, educational uses, museums, cultural centers, small residences in upper stories, or small medical clinics.

2. Wind turbines of any height.

STANDARDS

Minimum Lot Size:	1 acre per structure.
Minimum Street or Road Frontage:	50 feet.
Minimum side and Rear Yard Setback:	10 feet.
Minimum Front Yard Setback:	15 feet from edge of right-of-way. Minimum
Setback from Route 100:	200 feet from centerline of traveled portion of road.

6.10 CEMETERY -- 11 ACRE SEGMENT

A. ALLOWED USES (not requiring a permit)

1. Agriculture.
2. Forestry
3. Non-commercial recreation
4. Benign home occupations

B. Permitted Uses (requiring a permit)

1. Single family residences, Accessory dwelling units as defined in 24 §4412(1)(E) and Article VI Section 2 of these regulations, and family day care home occupations and residential care or group home occupations (See Article V, Section 1-1.4, Section 2);

C. Conditional Uses (requiring DRB review)

1. Light industrial uses, professional offices, home occupations, public and semi-public uses consistent with the concept and purposes of the State Farm District.
2. Wind turbines of any height.

SPECIAL CONDITIONS. Only one additional use will have access to Route 100. Other use(s) shall only have one access to Old Route 100 (Main St.) Due to the high visibility and aesthetic value of the area (as described in the Town Plan), the following specific limitations on any development in this segment will apply:

1. Parking spaces shall be kept to a minimum and shall not exceed 3 spaces per thousand square feet of building, but further parking spaces may be approved by the Development Review Board upon application by the owner;
2. Parking areas shall not be located between the building and Route 100 and shall be screened from Route 100;
3. All buildings shall be appropriately landscaped;
4. Any building in this segment shall have a gable roof; further, building design will be subject to approval by the Development Review Board;
5. Insofar as is possible, the existing topography of the cemetery segment should not be disturbed;
6. The maximum building height shall not exceed 36 feet;
7. Any signs shall conform to Article V, Section 8 of this Ordinance with the following special provisions:
 - a. No sign shall be erected within the 200-foot setback of Route 100 other than a single sign at the junction of Route 100 and the cemetery road;
 - b. No setback from the cemetery road will be required for any sign.

STANDARDS

Minimum Lot Size:	One acre
Minimum Street or Road Frontage:	50 feet.
Minimum side and Rear Yard Setback:	40 feet.
Minimum Setback from Route 100:	200 feet.
Minimum Setback from Old Route 100:	50 feet from the centerline of traveled portion of road.
Minimum Setback from Cemetery Road:	25 feet from centerline of traveled portion of road.

SECTION 7 – FLOOD HAZARD OVERLAY DISTRICT

7.1 Statutory Authorization and Effect

This bylaw is established, in accordance with 10 V.S.A. Chapter 32, and V.S.A. Chapter 117 §4424, §4411 and §4414, for areas at risk of flood damage in the Town of Duxbury, Vermont. Except as additionally described below, all administrative procedures follow municipal procedures under 24 VSA Chapter 117.

7.2 PURPOSE

It is the purpose of this bylaw to:

1. Implement the goals, policies, and recommendations in the current Duxbury Town Plan (October 2020);
2. Avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding;
3. Ensure that the selection, design, creation, and use of development is reasonably safe and accomplished in a manner that is consistent with public wellbeing, does not impair flood plain services or the river corridor,
4. Manage the flood hazard area designated pursuant to 10 V.S.A. Chapter 32 § 753, the municipal hazard mitigation plan; and
5. Make the Town of Duxbury, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

7.3 Other Provisions

1. Precedence of Bylaw. The provisions of these flood hazard bylaws shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Where this flood hazard regulation imposes a greater restriction the provisions here shall take precedence.
2. Validity and Severability. If any portion of this bylaw is held unconstitutional or invalid by a competent court, the remainder of this bylaw shall not be affected.
3. Liability Disclaimer. This bylaw does not imply that land outside of the areas covered by this bylaw will be free from flood damages. This regulation shall not create liability on the part of the Town of Duxbury, or any municipal official or employee thereof, for any flood damages that result from reliance on this regulation, or any administrative decision lawfully made hereunder.

7.4 Applicability

1. Regulated Flood Hazard Areas. These regulations shall apply to the Special Flood Hazard Area in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Chapter 32 § 753, which are hereby adopted by reference and declared to be part of these regulations. The location of the boundary shall be determined by the Zoning Administrator. If the applicant disagrees with the determination made by the Zoning Administrator, a Letter of Map Amendment from FEMA shall constitute proof.
2. Base Flood Elevations and Floodway Limits in Special Flood Hazard Areas. Where available, base flood elevations and floodway limits provided by the National Flood Insurance Program and in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations. In Special Flood Hazard Areas where base flood elevations and/or floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, it is the applicant's responsibility to develop the necessary data. Where available, the applicant shall use data provided by FEMA, or State, or Federal agencies.

7.5 Summary Table: Development Review in Hazard Areas

The hazard areas are not appropriate sites for new structures nor for development that increases the elevation of the base flood. As such, new structures are only allowed in accordance with stringent flood hazard requirements specified in this flood district overlay.

#	Activity	Hazard Zone	
		Special Flood Hazard Area	Floodway
	P Permitted C Conditional Use Review X Prohibited E Exempted		
1	New Structures	C	X
2	Storage	C	X
3	Improvements to Existing Structures	P, C	C
4	Small Accessory Structures	P	C
5	At Grade Parking	P	C
6	Replacement water supply or septic systems	C	C
7	Fill as needed to elevate new structures, and existing structures and roads	C	C
8	Road maintenance	E	E
9	Recreational vehicles	P	P
10	Open space, recreation	E	E
11	Forestry	E	E
12	Agriculture	E	E

7.6 Development Review in Hazard Areas

- A. Permit. A permit is required for all development in all areas defined in Section 7.4. Development that requires conditional use approval, non-conforming use approval, or a variance from the Development Review Board (DRB) under these flood hazard regulations, must have such approvals prior to the issuance of a permit (see Section 7.6 subsections D, F, and G below). Any development subject to municipal jurisdiction in the designated hazard areas shall meet the criteria in Section 7.4 and 7.7. Any permit issued will require that all other necessary permits from State or Federal Agencies have been received before work may begin.
- B. Permitted Development. The Zoning Administrator may issue a permit for the following development activities in the Special Flood Hazard Area outside of the Floodway, provided that the development meets the Development Standards in Section 7.7:
1. Non-substantial improvements;
 2. Accessory structures;
 3. Development related to on-site septic or water supply systems;
 4. Building utilities;
 5. At-grade parking for existing buildings; and,
 6. Recreational vehicles.
- C. Prohibited Development in Special Flood Hazard Area.
1. Junk yards storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the mapped floodway;
 2. New fill except as necessary to elevate structures above the base flood elevation;
 3. New structures in the mapped floodway;
 4. Critical facilities are prohibited in all areas affected by mapped flood hazards; and,
 5. All development not exempted, permitted, or conditionally permitted.
- D. Conditional Use Review. Conditional use review and approval by the DRB, is required prior to the issuance of a permit by the Zoning Administrator for proposed development within the following:
1. New residential or non-residential structures (including the placement of manufactured homes) in the Special Flood Hazard Area (but note that new structures are prohibited in the floodway);
 2. Substantial improvement, elevation, relocation, or flood proofing of existing structures;
 3. Accessory structures in the floodway;
 4. New or replacement storage tanks for existing structures;
 5. Improvements to existing structures in the floodway;
 6. Grading, excavation; or the creation of a pond;
 7. Fill as needed to elevate existing structures and roads;
 8. Bridges, culverts, channel management activities, or public projects which are functionally dependent on stream access or stream crossing; and
 9. Public utilities.
- E. Exempted Activities. The following are exempt from regulation under this bylaw:
1. The removal of a building or other structure in whole or in part;
 2. Maintenance of existing roads and storm water drainage;

3. Silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices; and,
 4. Agricultural activities conducted in accordance with the Vermont Agency of Agriculture's Required Agricultural Practices (RAPs). Prior to the construction of farm structures the farmer must notify the Zoning Administrator in writing of the proposed activity. The notice must contain a sketch of the proposed structure including setbacks. Note that the RAPs may prohibit the construction of farm structures in the flood hazard zone.
- F. Variances. Variances may be granted in writing by the DRB only in accordance with all the criteria in 24 V.S.A. § 4469, § 4424 (E), and 44 CFR Section 60.6, after a public hearing noticed as described in Section 7.8. Any variance issued in the Special Flood Hazard Area shall not increase flood heights, and will inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.
- G. Nonconforming Structures and Uses. The DRB may, after public notice and hearing, approve the repair, relocation, replacement, or enlargement of a nonconforming structure or use within a flood hazard area provided that:
1. The proposed development is in compliance with all the Development Standards in Section 7.7 of this bylaw;
 2. A nonconforming structure that is substantially damaged or destroyed may be reconstructed only in circumstances when the structure cannot be relocated to a less hazardous location on the parcel. The lowest floor of the reconstructed structure must be rebuilt to one foot or more above the base flood elevation, and the structure must otherwise comply with all requirements of the National Flood Insurance Program;
 3. Nonconforming structures or uses shall be considered abandoned where such structures or uses are discontinued for more than 12 months; and
 4. An individual manufactured home lot in an existing manufactured home park that is vacated shall not be considered a discontinuance or abandonment of nonconformity. Replacement manufactured homes must be placed so as to meet the development standards in this bylaw.

7.7 Development Standards

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

A. Special Flood Hazard Area

1. All development shall be:
 - a. Reasonably safe from flooding;
 - b. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
 - c. Constructed with materials resistant to flood damage;

- d. Constructed by methods and practices that minimize flood damage;
 - e. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 - f. Adequately drained to reduce exposure to flood hazards;
 - g. Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and,
 - h. Required to locate any fuel storage tanks (as needed to serve an existing building in the Special Flood Hazard Zone) a minimum of one foot above the base flood elevation and be securely anchored to prevent flotation; or storage tanks may be placed underground, if securely anchored as certified by a qualified professional.
2. In Zones A, AE, AH, and A1 – A30 where base flood elevations and/or have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 1.00 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer.
 3. New structures and existing structures to be substantially improved in Zones A, A1-30, AE, and AH shall be located such that the lowest floor, including the basement is elevated to or above the base flood elevation OR is at least one foot above base flood elevation, this must be documented, in as-built condition, with a FEMA Elevation Certificate;
 4. Non-residential structures to be substantially improved shall:
 - a. Meet the standards in VII A 3; or,
 - b. Have the lowest floor, including basement, together with attendant utility and sanitary facilities be designed so that two feet above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; A permit for flood proofing shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.
 5. Enclosures below grade on all sides (including below grade crawlspaces and basements) are prohibited.
 6. Fully enclosed areas that are above grade, below the lowest floor, below BFE and subject to flooding, shall
 - a. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and,
 - b. 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 may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

7. Recreational vehicles on sites within special flood hazard areas shall be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use;
8. A small accessory structure of 500 square feet or less that represents a minimal investment need not be elevated to the base flood elevation in this area, provided the structure is placed on the building site so as to offer the minimum resistance to the flow of floodwaters and shall meet the criteria in 5 (above).
9. Water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
10. Sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
11. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
12. The flood carrying and sediment transport capacity within the altered or relocated portion of any watercourse shall be maintained, and any alteration or relocation shall not result in any decrease of stream stability;
13. Bridges and culverts, which by their nature must be placed in or over the stream, must have a stream alteration permit from the Agency of Natural Resources where applicable.
14. Subdivisions and Planned Unit Developments must be accessible by dry land access outside the special flood hazard area.
15. Subdivision proposals shall comply with the following requirements:
 - a. New subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions) that are greater than 50 lots or 5 acres, whichever is the lesser, shall include base flood elevation data.
 - b. Subdivisions (including manufactured home parks) shall be designed to assure:
 - (i) such proposals minimize flood damage within the flood-prone area,
 - (ii) public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
 - (iii) adequate drainage is provided to reduce exposure to flood hazards.

B. Floodway Areas

1. Encroachments or development above grade and less than one foot above the base flood elevation, are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by

a registered professional engineer, certifying that the proposed development will:

- a. Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood;
 - b. Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.
2. Public utilities may be placed underground, and the analyses may be waived, where a registered professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.

7.8 Administration

A. Application Submission Requirements

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

B. Referrals

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

C. Records. The Administrative Officer shall properly file and maintain a record of:

1. All permits issued in areas covered by this bylaw;

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

7.9 Certificate of Occupancy

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

7.10 Enforcement and Penalties

- A. This bylaw shall be enforced under the municipal zoning bylaw in accordance with 24 VSA § 1974a, § 4451, and § 4452. A copy of the notice of violation will be mailed the State NFIP Coordinator. (See also Article III, Section 11.)
- B. If any appeals have been resolved, but the violation remains, the ZONING ADMINISTRATOR shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the property pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.
- C. Violations of the Required Agricultural Practices shall be enforced under this Section as violations of this bylaw. Such violations shall also be immediately reported to the Secretary of Agriculture for enforcement under 6 V.S.A. Section 4812.

7.11 Definitions

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

“Appropriate Municipal Panel” (AMP) means a planning commission performing development review, a board of adjustment, a development review board, or a legislative body performing

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

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

“Base Flood Elevation” (BFE) is the elevation of the water surface elevation resulting from a flood that has a 1 percent chance of equalling 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.

“BFE” see Base Flood Elevation

“Common plan of development” is where a structure will be refurbished over a period of time. Such work might be planned unit by unit.

“Critical facilities” - include police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities, and other structures the community identifies as essential to the health and welfare of the population and that are especially important following a disaster. For example, the type and location of a business may raise its status to a Critical Facility, such as a grocery or gas station.

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

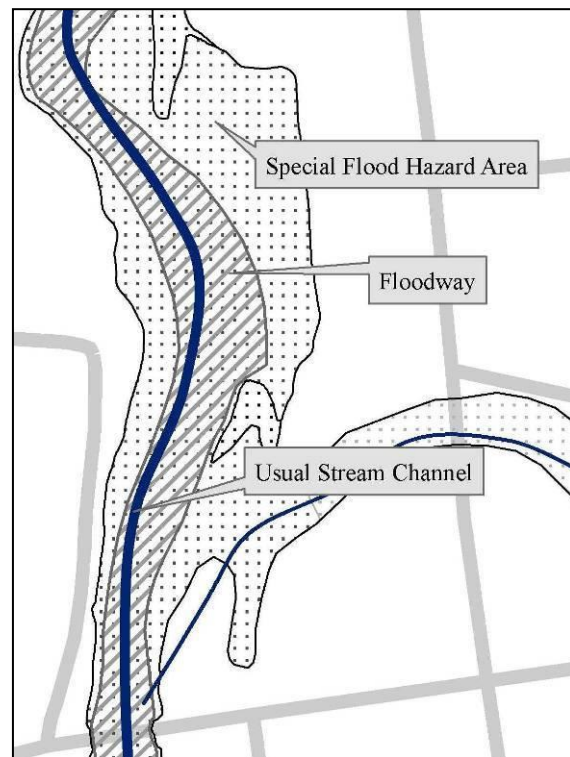
“Existing manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

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).

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

“FIRM” see Flood Insurance Rate Map

“Flood” means (a) a general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid



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

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

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

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

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

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

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

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

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

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

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

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

“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.

“New construction” for regulation under this bylaw, means structures for which the *start of construction* commenced on or after the effective date of the floodplain management regulation adopted by the community and includes any subsequent improvements to such structures.

“New manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

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

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

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

note, where floodways have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps.

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

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

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

“Substantial improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of this bylaw, the cost of which, over three years, or over a the period of a common plan of development, cumulatively equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
- b. Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

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

ARTICLE III – ZONING ADMINISTRATION AND THE PERMIT PROCESS

SECTION 1 – PLANNING COMMISSION

1.1 PLANNING COMMISSION.

The Select Board shall appoint the members of the Duxbury Planning Commission pursuant to 24 V.S.A. §4322 and 4323.

1. The Planning Commission shall consist of no fewer than three and no more than nine members.
2. The Planning Commission shall adopt procedures, hold public meetings, conform with open meeting requirements, record and file minutes, and act in conformance with the Regulations and the Act.
3. The Planning Commission may submit recommendations annually to the Select Board for the capital budget and program, that shall be in conformance with the municipal plan.

1.2 PROMULGATION, AMENDMENTS AND REPEALS OF THE REGULATION

1. The Zoning Regulations and the Town Plan shall be prepared by the Planning Commission and presented to the Select Board. An amendment or repeal of a bylaw may be prepared by the Planning Commission or any other person or body.
 - a. The Planning Commission shall hold at least one public hearing within the municipality after public notice on any proposed bylaw, amendment, or repeal.
 - i. At least 15 days prior to the first hearing, a copy of the proposed bylaw, amendment, or repeal and the written report (see below) shall be delivered with proof of receipt, or mailed by certified mail, return receipt requested, to each of the following:
 1. The Chairperson of the Planning Commission of each abutting municipality, or in the absence of any planning commission in a municipality, the clerk of that abutting municipality.
 2. The executive director of the regional planning commission.
 3. The Department of Housing and Community Affairs within the Agency of Commerce and Community Development.
2. The Planning Commission shall prepare a report in accordance with 24 §4441 (c). The report shall include:
 - a. an explanation
 - b. a statement of purpose
 - c. findings regarding whether the proposal, conforms with the goals of the Town Plan, is compatible with proposed future land uses and densities of the Town Plan and carries out, if applicable, any specific proposals for planned community facilities.
 - d. The Planning Commission may make revisions to the proposed bylaw, amendment, or repeal and to the written report, and shall then submit the

proposed bylaw, amendment or repeal and the written report to the Select Board. However, if requested by the Select Board or if a proposed amendment was supported by a petition signed by not less than five percent of the voters of Duxbury, the Planning Commission shall promptly submit the amendment, with changes only to correct technical deficiencies, to the Select Board, with any recommendation or opinion it considers appropriate. Simultaneously with the submission, the planning commission shall promptly file with the clerk of Duxbury a copy of the proposed bylaw, amendment or repeal and the written report for public review.

3. Not less than fifteen (15) days or more than one hundred twenty (120) days after the proposed bylaw, amendment, or repeal is submitted to the Select Board, the Select Board shall hold the first of one or more public hearings. Public hearings shall be conducted in accordance with public notice requirements set forth in Article III, Section 5 of these Regulations.
4. The Select Board may change the proposed ordinance or bylaw, amendment, or repeal but shall not do so less than fifteen (15) days prior to the public hearing. If the Select Board at any time makes substantial changes in the concept, meaning or extent of the bylaw, amendment, or repeal, the Select Board shall reissue public notice for a new public hearing or hearings.
5. The Regulations shall be effective upon the affirmative vote of legal voters of the Town of Duxbury by Australian ballot at a regular or special meeting duly warned and held.
6. Time for action. If the proposed bylaw, amendment or repeal is not approved or rejected within one year of the date of the final hearing of the planning commission, it shall be considered disapproved unless five percent of the voters of the municipality petition for a meeting of the municipality to consider the bylaw, amendment or repeal and the petition is filed within 60 days of the end of that year. In that case, a meeting of the municipality shall be duly warned for the purpose of acting upon the bylaw, amendment or repeal by Australian ballot.

SECTION 2 – ZONING ADMINISTRATOR

2.1 APPOINTMENT

The Duxbury Planning Commission shall nominate and the Select Board shall approve and appoint an Administrative Officer to serve for a term of three (3) years. The Administrative Officer shall administer the Regulations, and shall act in conformance with the Regulation. The Administrative Officer may be removed for cause at any time by the Select Board after consultation with the Planning Commission

2.2 GENERAL RULE

The Administrative Officer may process and issue or deny a Zoning permit, in accordance with the regulations, for projects and activities which do not require Development Review Board approval, as set forth in Section 3 of this Article III below.

2.3 PERMIT APPLICATION PROCESS FOR THOSE ACTIVITIES WHICH

DO NOT REQUIRE DEVELOPMENT REVIEW BOARD APPROVAL

1. A Zoning Permit Application may be obtained from the Town Clerk or the Administrative Officer. All applications must be complete and accompanied by the required fee. The Zoning Administrator shall promptly forward those applications which require Development Review Board approval to the Development Review Board.
2. No later than 30 days after the receipt of a completed zoning permit application, the Administrative Officer shall act to approve or disapprove the zoning permit application. If the Administrative Officer fails to act with regard to an application within thirty (30) days of the determination that an application is complete, a permit shall be issued on the thirty-first day.
3. A zoning permit shall expire if the work described in the permit has not commenced within two years of the date of issuance. The Zoning Administrator may grant a six-month extension for good cause. An extension may only be granted once provided there is no change to the project.
4. Within three (3) days of issuing the permit, the Administrative Officer shall provide a copy of the permit to the Duxbury Town Listers and to the Development Review Board of Adjustment; and shall post a copy of the permit at the Town Clerks office. The permit shall remain posted for fifteen (15) days and the permit will not become effective until the fifteen (15) day period has passed.
5. Upon issuing the permit, the Administrative Officer shall direct the applicant to post a copy of the permit within three (3) days of the issuance of the permit, within view of the public right of way most nearly adjacent to the subject property, until the fifteen (15) day appeal period has passed. The applicant is advised that the failure to post the permit may allow an interested party to question the validity of the permit.
6. Each permit shall contain a statement of the period of time during which the permit may be appealed. No permit shall become effective until the time for appeal has run, and if a notice of appeal has been filed a permit shall not become effective until final adjudication.
7. No zoning permit shall be valid until all required state and federal permits are obtained by the applicant.

SECTION 3 – DEVELOPMENT REVIEW BOARD

3.1 ESTABLISHMENT AND APPOINTMENT OF DEVELOPMENT REVIEW BOARD

1. Development Review Board is hereby established.
2. The Members of the Development Review Board shall be appointed by the Select Board in accordance with 24 V.S.A. §4460. The Select Board shall appoint no fewer than five and not more than nine members to the Development Review Board. The Select Board may also appoint alternate members to the Development Review Board.
3. The Development Review Board shall adopt procedures, adopt rules of ethics with respect to conflicts of interest, conform with open meeting requirements, and act in conformance with the Regulations and the Act, and 24 V.S.A. §4461 as follows.

- a. Hold public meetings at the call of the chairperson at such times as the Board determines.
 - b. All meetings shall be open to the public, except for deliberative and executive sessions.
 - c. The board shall keep minutes of the meetings. The minutes shall indicate the voting record of each member and set forth a record of examinations and other official actions. The minutes shall be filed with the town clerk's office.
- 4. A quorum is required for official action. A quorum shall constitute not less than a majority of the board.
 - 5. The board may examine evidence bearing on the matter, administer oaths and take sworn testimony on a matter, and require specific proof.

3.2 DEVELOPMENT REVIEW BOARD POWERS

The Board shall have the following powers:

- 1. To hear and decide applications for conditional use permits;
- 2. To hear and approve or deny applications for subdivisions;
- 3. To approve or deny applications for expansions or alterations of noncomplying structures or uses; or to hear and grant or deny a request for a variance from the literal requirements of the Regulations;
- 4. Review of right-of-way or easement for land development without frontage in accordance with Article V, Section 6;
- 5. To hear and decide applications for gravel, rock and sand extraction;
- 6. To approve or deny zoning permit applications regarding flood hazard areas;
- 7. To hear and decide appeals taken under the Regulations, including but not limited to the allegation that there is a material error in any act, order, requirement, decision or determination by the Administrative Officer in connection with the interpretation and enforcement of the Ordinance;
- 8. To conduct site plan reviews; and
- 9. To hear and grant or deny a request for a zoning permit, including but not limited to requests for a zoning permit for planned unit development or subdivision.

3.3 PROJECTS AND ACTIVITIES WHICH REQUIRE DEVELOPMENT REVIEW BOARD APPROVAL PRIOR TO A ZONING PERMIT

- 1. GENERAL RULE. In general, unless otherwise specified in these regulations, the prior approval of single-family homes, two family homes, agricultural and forestry uses generally do not require approval by the Development Review Board.
- 2. No zoning permit may be issued by the Administrative Officer for the following activities or projects, without prior approval by the Development Review Board:
 - a. Subdivisions
 - b. Conditional Uses; including
 - i. Home occupations other than benign home occupations and those home occupations that are specified as permitted within each district,
 - ii. Development of existing small lots that require a waiver or variance

- to meet setback requirements
 - iii. Development on lots with no frontage on, or access to, public waters or a private or public road.
 - c. Expansions of nonconforming uses or structures as specified in these regulations
 - d. Planned Unit Development (Article IV, Section 1)
 - e. Variances (Article III, Section 8.5)
- 3. The procedures for application and approval are set forth in each section of the regulations which discuss the specific standards of review.

3.4 DEVELOPMENT REVIEW BOARD DECISIONS

- 1. The Development Review Board may recess any application process pending the submission of additional information.
- 2. The Development Review Board shall issue a decision within forty-five (45) days of the warned public hearing required for conditional use determinations, variances, and administrative officer appeals. The failure to issue a decision will be deemed approval effective on the 46th day.
- 3.. The Development Review Board shall issue its decision in writing and shall include a factual bases and a statement of conclusions. The decision shall be mailed via certified mail to the applicant and/or the appellant in an appeal. Copies of the decision shall be forwarded to all persons appearing and having been heard at the hearing, and shall be filed with the Administrative Officer.

SECTION 4 – SITE PLAN APPROVAL AND REVIEW

4.1 SITE PLAN APPROVAL PROCEDURE

- 1. **PROJECTS WHICH REQUIRE SITE PLAN REVIEW.** No Zoning permit shall be issued for any subdivision, land development, or planned unit development without prior site plan review and approval by the Development Review Board. Site plan approval may be waived for minor projects, provided that the projects are approved by the Development Review Board. The Development Review Board may solicit comments from the Planning Commission during the review process.
- 2. **NOTICE REQUIREMENTS.** The Development Review Board shall require the applicant to notify all owners of adjoining property subject to the development and organizations that hold easements on the applicant's property, without regard to any public right-of-way. The notification shall include a description of the proposed project and shall inform the recipient where additional information may be obtained and that participation in the local proceeding is a prerequisite to any subsequent appeal. The applicant shall provide the Development Review Board with proof of notice, via certified or registered mail, provided to adjoining land owners. The applicant shall provide the Development Review Board with the names and addresses of the adjoining land owners, a copy of the notice provided to those land owners, and certification that the notice was forwarded to the land owners.
- 3. **SITE PLAN REQUIREMENTS.** The applicant shall submit one (1) hard copy set of site plans, and one digital copy with supporting data to the Development Review Board. As relevant to the plan, the site plan shall include:
 - a. Name and address of the owner(s) of record and of adjoining lands.

- b. Name and address of the person or firm preparing the map, scale of the map, north point, and date.
 - c. Survey of the property, if requested, showing existing features, including contours, property lines, structures, streets, utility easements, rights of way, land use and deed restrictions.
 - d. Site plan showing proposed structure(s), location of driveway(s), location of septic system(s), traffic circulation, parking and loading spaces, pedestrian walks, landscaping plans, including site grading, landscape design, and screening.
 - e. Construction sequence and time schedule for completion of each phase of the construction and landscaped area of the entire project.
4. SITE PLAN REVIEW PROCEDURE. Within sixty (60) days of the receipt of a completed plan, the Development Review Board shall:
- a. Meet with the applicant to discuss the plan;
 - b. Visit the site;
 - c. Conduct a public hearing on the permit application;
 - d. Provide at least seven (7) days public notice of the hearing date, by publication in a paper of general daily or weekly circulation in the municipality and posting notice in three (3) public places within the municipality; Mail notice of the public hearing to the applicant via first class mail fifteen days prior to the hearing.
 - e. The Development Review Board shall render a decision within forty-five days of the public hearing as set forth in Article III Section 3.3.
5. The Development Review Board may request further information relevant to the site plan, the proposed land development, and the site plan approval standards, at any time during the review process. A request for further information shall stay the forty-five (45) day review period.

4.2 SITE PLAN APPROVAL STANDARDS

1. The Development Review Board shall consider the following factors and objectives in approval or disapproval of the site plans:
 - a. The zoning districts and standards;
 - b. The Town Plan;
 - c. The Regulations and its purposes;
 - d. Maximum safety of vehicular circulation between the site and the street network. Particular consideration shall be given the visibility of intersections, traffic flow and control, pedestrian safety and access in case of emergency;
 - e. Adequacy of circulation, parking, and loading facilities, and
 - f. Adequacy of landscaping, screening, and setbacks with regard to achieving the maximum compatibility and protection of the adjacent properties. Particular consideration may be given to the preservation of existing vegetation, visibility of unsightly areas from the road and adjoining properties, and the suitability of landscaping materials to meet seasonal and soil conditions. Attention shall be given to the effect of noise, glare or odors on adjoining properties.
2. The Development Review Board may impose conditions on the land development relevant to the factors and objectives listed above.

4.3 MINOR PROJECTS

PROCEDURE FOR MINOR PROJECTS. The Development Review Board may waive the public hearing requirement for Site Plan Review if the Board determines that the application involves a minor activity or project, and the public hearing requirement is not otherwise mandated by statute and these regulations. For example, the process for minor projects is not available for appeals and conditional use applications.

1. Minor projects or activities are consistent with the Town Plan and these regulations, consistent with the neighborhood and district, do not create nuisance issues or additional traffic, and generally do not involve construction, erection or installation of additional structures, except that minimal changes to a structure may be minor. Examples of projects are the conveyance of a parcel to the owner of an adjoining parcel without any construction or change of use, or the raising or extension of a roof during replacement of the roof on a preexisting structure no more than 2 feet, as long as it does not violate set back requirements.
2. In the event that the Board determines that the project is minor, the Board may require the applicant to notify adjoining landowners of the project and may set a public hearing if so requested by interested parties.
3. If a project is determined to be minor, the Development Review Board shall render a decision on the application within forty-five (45) days of receipt of a completed zoning permit application or the final public hearing date.

4.4 SUBDIVISION PLAT APPROVAL AND RECORDING REQUIREMENTS In accordance with 24 V.S.A. 4463, subdivision plats must be approved by the Development Review Board after a public hearing.

1. The approval of the Development Review Board shall expire 180 days from that approval or certification unless, within that 180-day period, that plat shall have been duly filed or recorded in the office of the clerk of the municipality. After an approved plat or certification by the clerk is filed, no expiration of that approval or certification shall be applicable.
2. The Zoning Administrator may extend the date for filing the plat by an additional 90 days, if final local or state permits or approvals are still pending.

4.5 RATIFICATION OF IMPROPERLY FILED PLATS

1. If a plat has been recorded in the Duxbury Land Records without the signed endorsement of the Development Review Board, or was not timely filed or recorded in the Duxbury Land Records and no extension was obtained from the Zoning Administrator and the recorded plat can be shown to be identical to the plat that was acted on by the Board at that time, an interested party may apply to seek the Board's ratification of the recorded plat.
2. The Board shall review, at a duly noticed public hearing, a copy of the recorded plat and associated documentation and compare such with the records of the original approval. If found to be identical, the Board shall endorse a Notice of Ratification, which shall be recorded in the Duxbury Land Records and contain the following information:

“WHEREAS, the Duxbury Development Review Board, having granted

final plat approval relative to said subdivision and the related plat, and the same having been previously recorded in the Land Records of Duxbury, and wishes by the adoption and recording of this Notice to reaffirm and confirm said approval

- a. that the plat as recorded, in Map Book at Page, shall be deemed to have been stamped and endorsed by the Development Review Board as required by 24 V.S.A. 4463, and
 - b. the lots depicted on said plat have been and shall continue to be subject to the all of the conditions and restrictions contained in the final plat approval which conditions and restrictions shall run with said land and be binding upon the current owners thereof and their respective successors, heirs, and assigns, unless and until modified or removed by the Development Review Board.”
3. If the Board finds that the records do not support ratification, the request shall be denied.

SECTION 5 – PUBLIC NOTICE REQUIREMENTS

1. In accordance with 24 V.S.A. §4464, unless otherwise specifically stated such as for site plan reviews set forth in Article III Section 4, any public notice required for public hearing under this chapter shall be given not less than fifteen (15) days prior to the date of the public hearing by:
 - a. the publication of the date, place and purpose of the hearing in a newspaper of general publication in the municipality affected;
 - b. the posting of the same information in three or more public places within the municipality; and
 - c. compliance with subsection 2 of this section.
2. Where a hearing is called concerning a plan or bylaw adoption, amendment, or repeal or any capital budget and program or amendment thereof, the municipality shall also either:
 - a. publish and post, as provided in subsection (A) of this section, either the full text of the proposed material, or a notice including:
 - i. a statement of purpose;
 - ii. the geographic areas affected;
 - iii. a table of contents or list of section headings; and
 - iv. a description of a place within the municipality where the full text may be examined; or
 - b. make reasonable effort to mail or deliver copies of the full text, or a concise summary of the text as provided for in subdivision (B)(1) of this section, of the proposed material and the public hearing notice to each voter, as evidenced by the voter checklist of the municipality, and to each owner of land within the municipality, as evidenced by the grand list of the municipality.
3. No defect in the form or substance of any public hearing notice under this chapter shall invalidate the adoption, amendment or repeal of any plan, bylaw or capital budget and program. However, the action shall be invalidated if the notice is materially misleading in content or fails to include one of the elements required by subdivision (B)(1), or if the defect was the result of a deliberate or intentional act.

SECTION 6 – CONDITIONAL USES

6.1 GENERAL RULES

Conditional Uses are set forth for each Zoning District in Article II, Sections 2 through 7 of the Regulations. No Zoning permit shall be issued for any conditional use without review and prior approval of the Development Review Board.

6.2 CONDITIONAL USE REVIEW PROCEDURE

Within sixty (60) days of the receipt of a completed zoning permit application requesting a zoning permit the Development Review Board shall conduct a public hearing or hearings regarding the request. The Development Review Board may request further information relevant to the zoning permit application and review, at any time during the public hearing process. A request for further information shall stay the sixty-day public hearing period.

6.3 DECISION

Within forty-five (45) days of the final public hearing date, the Development Review Board shall render a decision on the request for a conditional use permit application. The failure to render a decision within that time period shall be deemed a decision in favor of the appellant.

6.4 STANDARD OF REVIEW - GENERAL CONSIDERATIONS

In order to approve a conditional use application, the Development Review Board must find that the incremental and cumulative impacts of each conditional use application do not have an undue adverse impact on the following factors and objectives:

1. The capacity of existing or planned community facilities;
2. The character of the area affected;
3. Traffic on the roads and highways in the vicinity;
4. The Regulations in effect and its purposes;
5. The Town Plan;
6. Utilization of renewable energy sources;
7. The zoning districts and standards;
8. The impact on neighboring areas; and
9. The capacity of the land to support the use.

6.5 STANDARD OF REVIEW - SPECIFIC CONSIDERATIONS

The Development Review Board shall also consider the following specific factors:

1. Specific performance standards as specified by state or federal regulatory agencies relating to nuisance issues such as, dust, odor, vibrations, and noise; and
2. The goals and objectives of the Town Plan, as it relates to the zoning district which is the subject of the application. If possible the project shall:
 - a. Place buildings within wooded portions or on the edges of fields in order to preserve open land,
 - b. Screen buildings with landscaping,
 - c. Locate buildings so as not to obstruct scenic vistas from public roads or lands,
 - d. Minimize curb cuts,

- e. Screen or locate parking areas out of sight,
- f. Place utility lines underground or locate utility lines so as not to obstruct scenic vistas from public roads or lands, and
- g. Maintain utility lines so as to preserve natural vegetative cover.

6.6 CONDITIONS

The Development Review Board may impose conditions on the conditional use relevant to the factors and objectives listed above, including but not limited to, the following:

1. The installation, operation, and maintenance of such devices and/or such methods of operation as may, in the opinion of the Board, be reasonably required to prevent or reduce fumes, gas, dust, smoke, odor, noise, vibration or similar nuisance. Performance standards, if applicable, shall be as specified by the appropriate state or federal regulatory agencies.
2. The extent and location of open spaces between the proposed use and surrounding properties.
3. The requirement that all work and storage of work-related materials be under cover.
4. Off street parking facilities with a maximum of one car per person of maximum projected use for off-street parking
5. Triple minimum lot size, triple distance from adjacent or nearby uses, and triple set back from the road.
6. Landscaping and fencing to maintain the character of the neighborhood.
7. Design and location of signs, outdoor lighting, structures, and service areas to maintain the character of the neighborhood.
8. Water supply and sewage disposal systems designed and installed in accordance with state regulations.

6.7 PRE-EXISTING NONCONFORMING USES AND STRUCTURES

The expansion, enlargement, increase, extension, or reconstruction of a nonconforming use or a nonconforming structure requires Development Review Board review and approval in accordance with the Conditional Use procedure and review standards as set forth above, Article III, Sections 6.1 to 6.6.

1. **GENERAL RULE.** Any nonconforming uses or non-complying structures shall not be altered, moved, enlarged, extended, reconstructed or increased without prior approval of the Development Review Board. Each nonconforming use and/or structure shall be independently evaluated for conformance with the Regulations.
2. **STANDARDS AND RULES FOR DEVELOPMENT REVIEW BOARD APPROVAL.** The Development Review Board shall apply the following standards and rules of review, in addition to the conditional use standards.
 - a. A nonconforming use or structure may be altered or expanded provided that the expansion does not increase the degree of non-compliance and is consistent with the character of the neighborhood and the District, as well as the Town Plan. For setback requirements, increasing the degree of noncompliance means development of the structure in the direction closer to the boundary line of concern.
 - b. A nonconforming use or structure may be altered or expanded no more than 25% of its footprint, as it existed on the effective date of this

regulation.

- c. A nonconforming use or structure cannot be reestablished if the use or structure has been discontinued for a period of five years, regardless of the intentions of the owner or operator.
- d. A nonconforming use or structure shall not be restored after damage, unless the use or structure is reinstated or restored within a period of five years.
- e. The Development Review Board may approve an extension of the five-year deadline for the resumption or restoration of a nonconforming use or structure, for good cause.
- f. The Development Review Board shall apply the standards of pre-existing small lots as set forth in Article V, Section 9, if applicable.
- g. The Development Review Board may authorize a special exception to the erection or alteration of a building on any lot, which is not of minimum size or is of such unusual dimensions that the owner would have difficulty providing the required open spaces for the zoning district, and is held in single and separate ownership, on the effective date of the Regulation.

SECTION 7 – EXTRACTION OF SAND GRAVEL STONE ROCKS OR SOIL FOR SALE OR COMMERCIAL USE

7.1 GENERAL RULE

No removal of sand, gravel, stone, rocks or soil for sale, except where incidental to the construction of a building on the same premises shall be permitted unless approved after public hearing (in accordance with Article III, Section 5) by the Development Review Board, in accordance with the procedures and standards set forth for Conditional Uses in Article III, Section 6. The Development Review Board shall consider all appropriate standards applicable to the project.

7.2 REQUIREMENTS FOR APPROVAL

In order to obtain approval, the applicant shall obtain and provide proof of the following to the Development Review Board:

- 1. A performance bond sufficient to secure the proper closure and redevelopment of the site when extraction activities cease;
- 2. A closure plan which ensures that site conditions will be safe, attractive, and consistent with surrounding properties, after extraction activities cease;
- 3. An operations plan including the following provisions:
 - a. A prohibition against the creation of steep slopes, spoil banks and pits,
 - b. Erosion control mechanisms,
 - c. Provisions to prevent discharges to nearby surface waters or drainage systems,
 - d. The prevention of the migration of materials from the site to adjoining properties or right of ways,
 - e. Provisions for regrading and seeding of slopes and other disturbed areas,
 - f. Setbacks of 200 feet from any property line or public right of way for any excavation, blasting or stockpiling of materials,
 - g. Setbacks of 300 feet from any property line or public right of way for any power activated sorting machinery, and
 - h. A description of the dust elimination devices on or attached to the equipment.

7.3 CONSIDERATIONS AND CONDITIONS

1. In deciding whether to approve or disapprove an application for gravel or soil removal, the Development Review Board shall consider the following factors:
 - a. The zoning districts and standards,
 - b. The goals and objectives of the Town Plan, as it relates to the zoning district which is the subject of the application and the impact on neighboring areas,
 - c. The capacity of the land to support the use,
 - d. The impact of the proposed project on the roads and highways in the vicinity, and
 - e. The impact of the proposed project on natural resources and scenic areas.
2. No extension of an existing non-conforming operation shall be permitted.
3. The Development Review Board may require such conditions as it deems are necessary to protect human health, safety, and welfare; reduce nuisance, and maintain the character of the neighborhood.

SECTION 8 – APPEALS

8.1 WHO MAY APPEAL - INTERESTED PARTIES

Any “interested party” may appeal a decision or act by the Administrative Officer to the Development Review Board. Appeals to the Development Review Board shall be in writing within fifteen (15) days of the act or decision, by filing a notice of appeal with the Town Clerk or the Secretary of the Development Review Board. An interested party is defined as follows:

1. A person owning title to property affected by the regulation, alleging that the regulation imposes unreasonable or inappropriate restrictions of present or potential use of the property under the particular circumstances of the case.
2. The Town of Duxbury or any adjoining municipality or a municipal conservation commission.
3. A person owning or occupying property in the immediate neighborhood which is the subject of the decision or act, who can demonstrate a physical or environmental impact on the person’s interest under the criteria reviewed, and who alleges that the act or decision is not in accord with the policies, purposes or terms of the Regulations and the Town Plan.
4. Any ten persons who may be a combination of voters or real property owners within the town of Duxbury who, by signed petition to the Development Review Board contend that the plan or the regulation which is at issue in any appeal, if granted, will not be in accord with the policies, purposes or terms of the Town Plan. The petition shall designate one person to serve as a representative.
5. Any department and administrative subdivision of the State of Vermont owning property or any interest therein within a municipality in the Town of Duxbury or any adjoining municipality, and the State of Vermont Agency of Commerce and Community Development.

8.2 PROCEDURE FOR APPEAL

1. **REQUIREMENTS OF A NOTICE OF APPEAL.** A notice of appeal shall include the following information:
 - a. The name and address of the appellant;

- b. A brief description of the property which is the subject of the appeal;
 - c. Reference to the regulatory provisions applicable to the appeal;
 - d. Relief requested by the appellant;
 - e. Proof of notice provided to parties; and
 - f. Alleged grounds for the relief requested.
2. **APPEAL WITHOUT HEARING.** The Development Review Board may reject an appeal without a hearing and render a written decision with findings of fact, within ten (10) days of the filing of the appeal, if the issues raised by the appellant on appeal have been decided in an earlier appeal or involve substantially or materially the same facts by or on behalf of the appellant.
3. **PROCEDURE.** Within sixty (60) days from the filing of the appeal, unless the Development Review Board issues a decision pursuant to Section 8.2 above, the Development Review Board shall conduct a public hearing of the appeal. The Development Review Board shall:
- a. Set the date and place for the public hearing;
 - b. Provide at least fifteen days public notice of the hearing, by publication in a paper of general daily or weekly circulation in the municipality and posting notice in two public places within the municipality; and
 - c. Mail notice of the public hearing to the applicant via first class mail fifteen days prior to the hearing.
 - d. The Development Review Board shall also require the applicant to notify all owners of adjoining property subject to the development and organizations that hold easements on the property, without regard to any public right-of-way. The notification shall include a description of the proposed project and shall inform the recipient where additional information may be obtained and that participation in the local proceeding is a prerequisite to any subsequent appeal.
4. **DECISION.** Within forty five (45) days of the public hearing date, the Development Review Board shall render a decision on the appeal. The decision shall state the time period for appeal of the decision of the Development Review Board. The failure to render a decision within that time period shall be deemed a decision in favor of the appellant. The Board shall within the forty five (45) days of the public hearing:
- a. Forward a copy of the decision to the appellant, applicant, and any interested parties via certified mail;
 - b. Forward copies of the decision to each attendant at the public hearing on the appeal; and
 - c. Provide copies to the Administrative Officer and the Town Clerk's Office.

8.3 STAY OF ENFORCEMENT

- 1. An appellant may request a stay of enforcement of the regulatory provisions which are the subject of the appeal by filing a request for stay along with the notice of appeal. The appellant shall file the request with the Development Review Board. The request for stay of enforcement shall be in writing and shall state the grounds for the request by affidavit.
- 2. The Development Review Board may, after public hearing, grant a stay of enforcement of the regulatory provisions, if the Board finds that irreparable harm or irremediable damage will directly result if the stay is denied.
- 3. Within fifteen (15) days that the notice of appeal and request for stay is filed with

the Development Review Board, the Board shall render a decision. The failure to render a decision within that time period shall be deemed a decision in favor of the appellant. The Board shall within the fifteen (15) days:

- a. Provide fifteen (15) days-notice of a public hearing by publication in a paper of general daily or weekly circulation in the municipality and posting notice in two public places within the municipality;
 - b. Provide notice to the appellant by mail;
 - c. Conduct a public hearing;
 - d. Render a decision;
 - e. Forward a copy of the decision to the appellant via certified mail;
 - f. Forward copies of the decision to each attendant at the public hearing on the appeal; and
 - g. Provide copies to the Administrative Officer and the Town Clerk's Office.
4. The Board may grant a stay of enforcement, under such terms and conditions, including, without limitation, a bond to be furnished by the appellant.
 5. Any stay granted by the Development Review Board shall expire after the expiration of the time to appeal to the Environmental Court.

8.4 EXCLUSIVITY AND FINALITY OF REMEDY

1. The exclusive remedy of an interested party with respect to any decision or act taken, or any failure to act, under the Regulations shall be the appeal to the Development Review Board, and the appeal to the Environmental Court from an adverse decision upon such an appeal.
2. The failure of an interested party to appeal, shall render all interested parties bound by the decision or act of the Zoning Administrator, such provisions, or such decisions of the Board. The interested parties shall not thereafter contest, either directly or indirectly, such decision or act, such provision, or such decision of the Board in any proceeding, including, without limitation, any proceeding brought to enforce this Regulation.

8.5 VARIANCES

1. The Development Review Board shall hear an appeal wherein a variance of a zoning regulation is the requested relief of the appellant. The Development Review Board shall grant a variance and find in favor of the appellant, if the Board finds all of the following facts in its decision on the appeal:
 - a. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topography or other physical conditions peculiar to the 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 where the property is located;
 - b. That because of such physical circumstances or conditions; there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is, therefore, necessary to enable the reasonable use of the

- property;
 - c. That such unnecessary hardship has not been created by the appellant;
 - d. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to public welfare; and
 - e. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the zoning regulation and of the Town Plan.
2. In rendering a decision in favor of an appellant under this section, the Development Review Board may attach such conditions it deems necessary and appropriate to implement the purposes of this bylaw and the Town Plan then in effect.
- 8.6 Waivers** – The DRB may grant waivers to reduce dimensional requirements as long as they conform to the Town Plan and Title 24 Chapter 117 §4302. The standards:
- 1. May require mitigation through design, screening or other remedy;
 - 2. May allow for structures required for disability accessibility, fire safety, and other requirements of law;
 - 3. Provide for energy conservation and renewable energy structures.

SECTION 10 – RECORDS

The Administrative Officer shall keep on file and available to the public a full and accurate record of all applications received, permits issued, and violations committed during his or her term of office, and the term of his or her predecessor. No later than thirty days from the date of issuance of a municipal land use permit, the appropriate municipal officer shall:

- 1. File a copy of the municipal land use permit with the town clerk for recording in the municipal land records, and
- 2. File a copy of the municipal land use permit in a location where all land use permits shall be maintained.

SECTION 11 – ENFORCEMENT

1.1 GENERAL RULE

If any building, structure or land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained, or used in violation of the zoning Regulations, the Administrative Officer shall, with prior approval of the Select Board of the Town of Duxbury, initiate any appropriate action, injunction or other proceeding to prevent, restrain, correct or abate any act, conduct, business or use constituting a violation.

1.2 PENALTIES

Any person who violates the Regulations, shall be fined not more than the statutory limit as set forth in 24 V.S.A. §4451 for each offense. Each day that a violation is continued shall constitute a separate offence. Fines shall be paid to the Town of Duxbury.

1.3 PROCEDURE

Prior to any enforcement action or imposition of fines, the Administrative Officer shall:

1. Provide at least seven (7) days notice to the alleged violator via certified mail;
2. The notice shall describe the violation and the relevant regulation, state that the alleged violator has seven (7) days to cure the violation, and state that the violator will not be entitled to an additional warning notice for any continuing violation after the expiration of the seven (7) days.
3. Enforcement shall be initiated within fifteen (15) years of the date that the alleged violation first occurred.

1.4 DEFAULT

If an alleged violator defaults on payment of a fine, such person, the members of any partnership, or the principal officers of such corporation shall each pay double the amount of such a fine.

1.5 STAY OF ENFORCEMENT

See Article II Section 8-8.3 for procedures regarding stay of enforcement.

SECTION 12 – APPEAL FROM A DECISION OF THE DEVELOPMENT REVIEW BOARD

Any interested party (See Article III, Section 8-8.1) may appeal a decision of the Development Review Board to the Environmental Court. A notice of appeal shall be within thirty (30) days of the Board Decision in accordance with the Act and applicable state law and court procedure.

ARTICLE IV – PLANNED UNIT DEVELOPMENTS

SECTION 1 – PLANNED UNIT DEVELOPMENT

1.1 PURPOSE

1. The purposes of the planned unit development (PUD) provision are to: encourage attractive communities,
2. encourage innovation in design and layout and more efficient use of land,
3. to facilitate the adequate and economic provision of streets and utilities,
4. to preserve the natural and scenic qualities of open land, prime agricultural and forestry soils, wildlife habitat and scenic vistas,
5. to provide for a mixture of compatible residential and commercial uses at different densities, and
6. to provide for the development of existing lots consistent with the Town Plan, which because of physical, topographical or geological conditions could not otherwise be developed.

1.2 GENERAL RULE

In accordance with the provisions set forth in Section 4417 of the Act, and where permitted in the zoning districts, the modification of the district regulations by the Development Review Board is permitted simultaneously with site plan approval under the following procedures:

1.3 SITE PLAN REQUIREMENTS

The applicant shall submit a site plan to the Development Review Board. The Site Plan shall include:

1. the location, height and spacing of buildings,
2. open spaces and their landscaping,
3. streets, driveways and off-street parking spaces,
4. unique natural or manmade features, and physical conditions of the site,
5. a statement setting forth the nature of all proposed modifications, changes or additions of or to existing zoning regulations, and
6. a construction schedule indicating the proposed mixture of residential, commercial and industrial properties to be developed in a given calendar year for Development Review Board Approval.

1.4 APPLICATION PROCEDURE

The Development Review Board shall act to approve or disapprove any such plan within sixty (60) days after the date upon which it receives the proposed plan. (See Article III, Section 4.1 D).

1.5 PERMITTED USES

Uses shall be limited to those permitted and conditional uses within the district in which the PUD is proposed.

1.6 REVIEW STANDARDS

1. GENERAL STANDARDS. In order for the Development Review Board to approve the application, the PUD shall:
 - a. Be consistent with the Town Plan;
 - b. Not exceed an overall density of residential, commercial, industrial, or other units permitted in the Development Review Board's judgment if the land were subdivided into lots in accordance with the district regulations;
 - c. Constitute an effective and unified treatment of the development possibilities on the project site;
 - d. Make appropriate provisions for preservation of streams and streambanks, steep slopes, wet areas, soils unsuitable for development, forested areas and unique natural and manmade features;
 - e. Arrange Mixed uses in a compatible manner so as ensure visual and aural privacy for residents of the project;
 - f. Propose development over a reasonable period of time to ensure adequate municipal facilities and services; and
 - g. Whenever feasible, provide a water storage pond for adequate fire protection.
2. SPECIFIC STANDARDS. The following specific standards shall be met in order for the Development Review Board to approve the application:
 - a. District regulations on height shall be met, and spacing between main buildings shall be 80 feet unless otherwise waived by the Development Review Board;
 - b. To insure adequate visual and aural privacy for existing or proposed uses adjacent to the PUD, structures on the perimeter of the PUD shall be set back 40 feet, except where it borders the street or road, where it must be set back 70 feet from the center of the traveled portion of all roads except 80 feet from the

- center of the traveled portion of a 4-rod road, and screening may be required;
- c. The maximum building coverage per acre shall be 50%;
- d. Adequate water supply and sewage disposal facilities shall be provided in accordance with State regulations;
- e. The minimum requirement for open space shall be 50% of the total acreage.

1.7 OPEN SPACES

The land area not allocated to building lots and streets shall be permanently reserved as open space. This area shall be reserved in such a condition, size and shape as to be readily usable for recreation or conservation. Such land shall be held in corporate ownership by the owners of the units within the development. Membership in said corporation shall be mandatory for all residents of the development. In case of corporate ownership, the developer shall include in the deed to the owners of the dwelling units the membership stipulation and the beneficial right in the use of open land.

1.8 SPECIAL REVIEW AND DESIGN REQUIREMENTS FOR PUD IN THE STATE FARM DISTRICT

In addition to all other requirements of this Section, the following requirements shall apply to Planned Unit Developments in the State Farm District:

1. Development shall, to the extent practicable, respect the visual resources identified on the "VISUAL RESOURCES ANALYSIS" map of the DUXBURY FARM, dated May, 1994.
2. Development shall be laid out and designed to preserve, to the extent practicable, the prime agricultural soils identified on the "SOILS ANALYSIS" map of the DUXBURY FARM, dated May, 1994.
3. Development shall be laid out and designed to protect, to the extent practicable, the fields identified on the "VEGETATION ANALYSIS" map of the DUXBURY FARM, dated May, 1994.
4. The PUD shall be designed to allow significant portions of the land to be kept in tracts suitable for agriculture or forestry uses.
5. Development shall be laid out and designed to protect, to the extent practicable, the resources identified on the "NATURAL RESOURCE MAP" in the Town Plan.
6. Development shall be laid out and designed to protect Crossett Brook. A buffer equal to either fifty (50) feet or that required by State regulations, whichever is larger, shall be preserved along both sides of the brook. Within this buffer, no construction shall take place and no vegetation shall be removed without explicit approval by the Development Review Board.
7. The provisions of Article IV, Section 1.6 of these regulations notwithstanding, land not allocated to building lots or roads shall be permanently reserved for conservation, agriculture or forestry by transferring either full ownership or development rights to a land trust approved by the Development Review Board.
8. Development shall be consistent with the Town Plan.
9. It is the intent of these regulations that land not used for building sites be kept open and usable for agriculture or forestry. To the extent practicable, such land shall not be encumbered by fences, unless the fences are part of an ongoing agricultural operation.

10. As part of the PUD approval, the Development Review Board may authorize a density bonus of up to 25 percent of the number of lots otherwise allowed in exchange for creating small individual building lots, if so doing will further the purposes of this section.
11. The PUD shall encompass the entire Barns/Buildings segment of the State Farm District.
12. The PUD design shall explicitly coordinate with the layout of the middle school facility on the adjacent segment.

A main access road may connect to the end of the public road serving the middle school, run along the recreation fields, and extend to Route 100. This road may be designed to include parallel on-street parking. The new road shall not be connected to the school access road until the entire new road, including the connection to Route 100, is constructed in accordance with Town standards.
13. Off-street parking may not be located in front yards but must be behind the front facade line of the building(s).
14. Parking requirements, as specified in Article V, Section 2 of these Regulations, may be reduced by the number of on-street spaces immediately fronting the lot on which the building is located, provided that those spaces have not been allocated to any other building.
15. Off-street parking lots may be shared by adjacent buildings, provided that the required number of parking spaces is provided. In such cases parking may be located in required side yards.
16. No building may contain more than 20,000 square feet of enclosed building space except for the adaptive reuse or reconstruction of structures built prior to 1970.
17. Provisions of Article IV, Section 2.6 A(2) notwithstanding, The entire PUD shall contain no more than 130,000 square feet of enclosed building space. Up to 110,000 square feet may be located southwest of the power lines and up to 30,000 square feet may be located northeast of the power lines.
18. The Development Review Board may grant a bonus of up to 10,000 square feet for proposals that include reconstruction of the main State Farm barn building. If such a bonus is granted, total development in the PUD may be increased to 140,000 square feet, total development southwest of the power lines shall not exceed 110,000 square feet, and total development northeast of the power lines shall not exceed 40,000 square feet.
19. Development located northeast of the power lines shall be considerably less dense than that around the recreation fields, shall make use of existing structures to the extent practicable, and may be accessed from Route 100. Development in this area may include small scale manufacturing, educational facilities, museums, and agricultural uses.
20. Provisions of sub-paragraphs Article IV, Section 2.6 B(1) and (2) notwithstanding, the Development Review Board may approve front yard setbacks and spacing between buildings that is appropriate to the objective of creating a village center around the recreation fields.
21. The provisions of paragraph Article IV, Section 2.7 of these regulations notwithstanding, land not allocated to building lots or roads shall be permanently reserved for conservation, agriculture or forestry by transferring either full ownership or development rights to a land trust approved by the Development Review Board.

1.9 SITE PLAN STANDARDS FOR PUDS IN THE STATE FARM DISTRICT

1. As authorized in Section 4416 of 24 V.S.A., Chapter 117, the following site plan standards are established for development in PUDs in the State Farm District, in addition to any standards contained elsewhere in this Section. The intent of these standards is to encourage the creation of a compact village center pattern of development, using the middle school athletic fields as a town green. This is seen as an alternative to strip development along Route 100. All development in the Barns/Buildings 37-acre segment of the State Farm District shall be part of an approved PUD and shall be consistent with the standards set forth in this subsection.
2. The PUD shall be planned to complement the layout of the middle school on the adjacent property.
3. Site Plan Approval shall be required for the overall PUD. If the PUD plan calls for the creation of individual lots to be sold and/or developed separately, Site Plan Approval shall also be required for development on each lot.
4. LAYOUT:
 - a. The DRB may require the PUD layout to include a road connecting to the end of the access road serving the middle school, running along the edge of the recreation fields and continuing to Route 100. Any new road shall not be connected to the school access road until the entire new road, including the connection to Route 100, is constructed in accordance with Town standards.
 - b. Off-street parking serving buildings opposite the recreation fields shall be located in the side or rear yards, and shall not be in front of the front façade line of buildings.
 - c. Buildings opposite the recreation fields shall be set back no more than 20 feet from the edge of the right-of-way, and arranged to create a unified street façade and to define a public space around the recreation fields.
 - d. Total development in the PUD shall not exceed 130,000 square feet of enclosed building space. Up to 110,000 square feet shall be located in the area southwest of the power lines, and up to 30,000 square feet may be located in the area northeast of the power lines.
 - e. The DRB may grant a bonus of up to 10,000 square feet for proposals that include reconstruction of the main State Farm barn building. If such a bonus is granted, the total development in the PUD may be increased to 140,000 square feet, total development southwest of the power lines shall not exceed 110,000 square feet, and total development northeast of the power lines shall not exceed 40,000 square feet.
 - f. Development northeast of the power lines shall, to the extent practicable, make use of existing structures.
5. DESIGN (area southwest of the power lines):
 - a. Buildings shall be gabled roofed and not more than 2.5 stories in height/
 - b. Buildings shall have brick facades or horizontal siding.
 - c. At least 30 percent of the front facades shall be windows and doors.

- d. Front porches and places for outdoor seating are encouraged.
- e. Front facades shall be designed to create the visual image of small storefronts (e.g. Bays of approximately 25 feet).

For proposed development that is of an integrated, unified design, the DRB may approve lots as small as one-fourth acre, provided that doing so furthers the purpose of this section and Article II, Section 6.10 (B).

The DRB may approve a zero side yard setback on one side of a lot, provided that doing so furthers the purposes of this section and Article II, Section 6.10 (B).

- f. Landscaping shall be provided to create a pleasant streetscape and reinforce the village green concept of the recreation fields.
- g. Utilities shall be placed underground.

6. DESIGN (area northeast of the power lines):

- a. Buildings shall be no more than 2.5 stories in height.
- b. At least 50 percent of front facades and 20 percent of side facades shall have some type of window and door treatment. The remainder of the front façade shall have brick, stone or horizontal siding.
- c. Buildings shall not front directly onto Route 100.
- d. There shall be direct access to Route 100 for a single new road. The access road and curb cuts shall be consistent with the applicable state standards.
- e. Utilities shall be placed underground.

7. SIGNS:

The PUD plan shall include a sign plan for all signs. In approving the sign plan, the DRB shall require that the following standards be met.

- a. All signs shall be consistent with an overall sign plan and shall be of a consistent (but not necessarily identical) design.
- b. Freestanding signs shall not be allowed in the area southwest of the power lines (the planned village center area).
- c. In the area southwest of the power lines, signs may be located closer to roads than specified in Article V, Section 7 of these Regulations, but no less than ten (10) feet from the edge of the right-of-way.
- d. In the area southwest of the power lines, a sign designed to project at 90 degrees from building facades may be approved, provided:

The sign contains no more than eight (8) square feet of area;
The lowest point of the sign shall not be less than eight (8) feet
Above grade or walkway, whichever is highest; and
The sign projects no more than four and a half (4.5) feet from the
building façade on which it is mounted.

- e. In the area southwest of the power lines, signs shall conform to all other requirements of Article V, Section 7 of these Regulations.
- f. In the area northeast of the power lines, signs shall conform to the requirements of Section 6.2 of these regulations unless modifications of those requirements are specifically approved by the DRB.

ARTICLE V – GENERAL PROVISIONS

SECTION 1 – HOME OCCUPATIONS

1.1 HOME OCCUPATIONS (permit required)

The Regulations shall allow home occupation use provided that:

1. the use or occupation is customary in residential areas,
2. does not change the character of the neighborhood or district, and
3. is consistent with the zoning districts as described in the town plan.

1.2 EXAMPLES OF HOME OCCUPATIONS

Examples of appropriate home occupations, include, but are not limited to:

1. A family day care home - a state registered or licensed day care facility serving six or for fewer children (see the definition of “family day care home in Article VI, Section 2);
2. 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 no such home will be considered a home occupation if located within 1,000 feet of another such home;
3. Teaching, tutoring, counseling or consulting services;
4. Home-based health service;
5. Legal, accounting, computer, architectural, or design services;
6. Sewing, upholstery, arts, pottery or other crafts;
7. Small appliance repair, or
8. Catering.

1.3 LIMITATIONS AND RULES REGARDING HOME OCCUPATIONS

All home occupations, with the exception of state licensed or registered residential care home or group homes as described in 1.2, number 2 shall:

1. Be carried out entirely within the principal and/or accessory structure;
2. Occupy no more than 25% of the home (that is, of the combined areas of the home and the accessory structure(s) used in the home occupation);
3. Be limited to activities that are family-run and employ no more than two employees who are not family members;
4. Not produce excessive noise, smoke, odor, or other such nuisance;
5. Not generate hazardous waste as defined by applicable state and federal law;
6. Not include retail stores;
7. Not entail changes to the exterior or the land or structures that are inconsistent with the residential character of a neighborhood;
8. Not produce a greater volume of traffic than would normally be expected in the neighborhood; and
9. Provide off street parking, if necessary.

1.4 BENIGN HOME OCCUPATION

A Benign Home Occupancy shall not require a permit. A Benign Home Occupation is defined as a home occupancy which:

1. Is limited to activities that are family-run;

2. Involves limited or no client or customer interaction in home;
3. Does not produce noise, smoke, odor, or other such nuisance;
4. Does not require any additional off-street parking;
5. Does not produce additional traffic; and
6. Does not entail the use of a permanent sign or signs.
7. In the event that any of the above conditions are not met, the homeowner must obtain a permit.

SECTION 2 – DAY CARE FACILITY

2.1 No permit shall be issued for the creation or operation of a child care facility without obtaining all licenses and/or registrations required under state law. Operation of a facility in violation of licenses or registration shall constitute a violation of these bylaws. Child care facilities that are exempt from state licensure and registration through 33 V.S.A. § 3502(b) are not regulated under these provisions but may be regulated in other sections of this bylaw. Such exemptions include:

1. Persons providing care for children of not more than two families;
2. Hospitals or establishments holding a license issued by the Department of Health, or a person operating a program primarily for recreation or therapeutic purposes;
3. Day care facilities operated by religious organizations for the care and supervision of children during or in connection with religious services or church sponsored activities;
4. Nursery schools or other preschool establishments, attended by children of less than compulsory school age, which are subject to regulation by the Department of Education (33 V.S.A. § 3502(b)(1-4));
5. A state registered or licensed family child care home operated within a single family dwelling shall be considered by right to constitute a permitted single family residential use of the property.

2.2 Uses that meet the above requirements shall not require a permit issued by the zoning administrator but the applicant shall notify the zoning administrator in writing of intent to establish use.

2.3 A state registered or licensed family child care home operating in a dwelling other than a single-family dwelling (e.g. duplex, multifamily housing) shall be treated as a permitted use and therefore must receive a zoning permit and shall also be required to obtain site plan approval.

2.4 Unless waived in writing by residents of the complex, all family child care homes not operating in a single family dwelling shall be limited to hours of operation between 7 a.m. and 7 p.m.

2.5 Licensed daycare facilities shall be reviewed as a service establishment and are subject to conditional use and site plan review as appropriate.

SECTION 3 – ACCESS AND PARKING REQUIREMENTS

1. Unless otherwise directed by the Development Review Board, no new building shall be constructed in the Village District unless the owner of the lot grants:
 - a. A travel easement at least twenty (20) feet wide, across such lot or across adjoining property, so as to connect with a public highway for the purpose

- of furnishing access to such public highway for the benefit of adjoining
 - b. Utilities easements or other easements across such lot or across adjoining property for the purpose of furnishing access to public utilities for the benefit of adjoining land having no adequate access thereto.
 - 2. Any building or other structure erected, altered, or used and any lot used or occupied for any of the following purposes shall be provided with the minimum off -street parking spaces as set forth below together with adequate passageways, driveways or other means of circulation and access to and from a street or way:
 - a. One all-weather parking space for each family unit in a residential dwelling, each room for rent in a rooming or boarding house, or for each rental unit in a hotel, motel or tourist home, or for each two (2) occupants in a residential club, or for every ten (10) occupants in an institutional home; or for every four beds in a hospital, convalescent home, or sanitarium; or for every two hundred (200) square feet of floor space in a retail store or shop, department store or supermarket, office building or wholesale establishment; or for each fifty (50) square feet devoted to patron use in a restaurant, tea room, or outpatient care facility or for each one thousand (1,000) square feet of floor space or fraction thereof in any commercial building not herein above enumerated; or for each commercial purpose.
 - b. The parking spaces herein above required may be located elsewhere than on the same lot, or the requirements for parking may be reduced, upon application to the Development Review Board provided that;
 - i. The owners of two (2) or more establishments shall submit with their application for special exception a site plan showing joint use and location of a common off-street parking area;
 - ii. The Development Review Board is persuaded that greater efficiency is affected by joint use of a common parking area; and
 - iii. Some portion of the off-street parking areas lies within two hundred (200) feet of an entrance regularly used by patrons into the building served thereby.

SECTION 4 – WATER SUPPLY AND WASTEWATER DISPOSAL PERMITS

1. Water supply and wastewater treatment systems proposed to be built, altered or replaced within the Town of Duxbury shall be subject to applicable regulations and permit requirements of the Vermont Agency of Natural Resources Water Supply Rules, as most recently amended.
2. Construction of a Dwelling Unit on a Single Lot. No zoning permit for new construction of a single-family or two-family dwelling on a single lot shall be effective unless and until a Wastewater System and Potable Water Supply Permit has been issued to the parcel owner pursuant to 10V.S.A. Chapter 64.
3. New Construction, Subdivision and Creation of Two or more New Lots. An applicant for an approval, other than construction of a single-family or two-family dwelling on a single lot, may submit an application to the Town for review prior to issuance of a wastewater and potable water supply permit by the Vermont Agency of Natural Resources. In any such case, the Administrative Officer or DRB shall condition approval to require issuance of an approved wastewater and potable water supply permit prior to town

approval becoming effective.

SECTION 5 – HEIGHT OF STRUCTURES

1. No structure shall exceed 36 feet in height, except as provided in this Section and as set forth in Section 13 Wind Turbines. The principal structure height limit shall apply to all accessory buildings, structures and appurtenances other than the customary rooftop television or radio antenna. Building Height is the vertical distance measured from the average elevations of the proposed finished grade at the front of the building to the highest point of the roof.
2. Height in excess of 36 feet may be approved by the Development Review Board on its written finding, after hearing, that:
 - a. The additional height applied for is customary to the proposed use such as, but not limited to, church steeples, flagpoles and agricultural silos; or
 - b. If the additional height applied for is necessary to the operation or function of the proposed use, such as, but not limited to, industrial silos, elevator shafts, water towers, chimneys, windmill; or
 - c. The additional height applied for is required for public necessity or public safety such as; but not limited to, air navigational aids beacons and high voltage transmission lines.
3. In granting additional height approval beyond 36 feet for any structure, accessory building or appurtenance, the Development Review Board shall be guided by, and base its findings on, the following criteria:
 - a. The Town Plan
 - b. Public safety,
 - c. Impact on the character of the neighborhood, and
 - d. Visual impact.
4. The maximum permitted height for chimneys shall be 40 feet, in all zoning districts where residential dwellings are allowed as permitted or conditional uses. A waiver to this height restriction may be given where the chimney needs to conform to codes and standards set by the National Fire Protection Association (NFPA), specifically standards 31, 54, 58 or 211 or as required by original equipment manufacturers in their appliance installation and operating instructions for equipment attached to such chimneys.

SECTION 6 – FRONTAGE OR ACCESS REQUIRED TO PUBLIC ROADS OR WATERS; ACCESS PERMITS (CURB CUTS)

1. An access permit shall be obtained for:
 - a. Any new curb cut or access point to a town road or town trail;
 - b. Placement or replacement of any culvert within or adjacent to a Town right-of-way.
 - c. The Access permit shall be obtained directly from the Town Road Foreman, and documentation of final approval shall be provided to the administrative officer.
2. No land development is permitted on lots that do not have either frontage on a public road or a permanent easement or right of way of record approved by the DRB as a conditional use in accordance with Article III, Section 6 of the bylaws. Minimum

frontage is established in Article II for each district. Frontage applies to all property lines bordering public or private roadways but not driveway easements. Permits may be granted for land that does not have frontage on a public road provided access is available by a permanent easement or right-of-way. The required easement or right-of-way shall be at least 50 feet in width for any such landlocked parcels.

SECTION 7 – EQUAL HOUSING STANDARDS

1. Nothing in these zoning regulations shall be construed to prohibit or deter the establishment of low and moderate- income housing, senior housing or mobile home parks in the Town of Duxbury. Nothing in these zoning regulations shall be construed to prohibit or deter the erection or installation of mobile homes or other forms of prefabricated housing. It is the goal of the Town of Duxbury to allow for the development of low and moderate income and senior housing in a manner consistent with the Town Plan and the zoning regulations.
2. No bylaw shall have the effect of excluding housing that meets the needs of the population as determined in the housing element of the Town Plan as required under 24 V.S.A. § 4382(a)(10) and 24 V.S.A. § 4412(1)(A).

SECTION 8 – SIGNS

Signs Permanent (Principal Business or Establishment – Public or Private)

A zoning permit shall be required prior to the erection, construction or replacement of any permanent outdoor sign that is used to identify a public or private principal business or establishment. Permanent signs as specified above shall require a zoning permit issued by the ZA or approved in conjunction with a conditional use, variance or site plan review process; and shall conform with the following standards:

1. No sign shall contain obscene material
2. No sign shall exceed eight (8) square feet for home occupations or in residential neighborhoods. Such signs shall be set back at least thirty-five (35) feet from the center of the road. Signs located in residential neighborhoods may only be illuminated by downcast lighting, with no glare or light trespass from such lighting beyond the property line.
3. No sign shall exceed thirty-two (32) square feet for commercial signs. Such signs shall be set back at least thirty-five (35) feet from the center of the road.
4. There shall be a maximum of two (2) signs per lot
5. No sign shall be placed on a roof.
6. No sign shall have moving parts or blinking lights. Except as provided in 3. above, sign lighting shall be from a down-casting fixture or internal illumination. For internally illuminated signs, the light sources, bulb, or other fixture may not be visible from the exterior of the sign.

Exempt Permanent Signs:

1. Signs erected by the town or state on public roads for directional, safety or public service purposes;

2. An ornamental or address sign incidental to residential use and not used for advertising purposes;
3. Signs identifying historic, landmark or conserved property;
4. Unlit, non-advertising signs not exceeding 3 sq ft in area for direction or convenience of the public;
5. No trespassing signs; no hunting signs; and trail markers.

Temporary signs not requiring a permit, examples:

1. One temporary real estate sign “for sale”; “for rent”; or “for lease” per front yard that does not exceed six (6) sq ft in area per side and sits at a minimum of 12 ft from the edge of a road, street, or highway.
2. Signs that promote a community event, public hearing or town-related reminder;
3. Temporary signs not exceeding nine (9) sq ft for the purpose of advertising contractors and sub-contractors for permitted construction projects for the duration of active construction;

SECTION 9 – PRE-EXISTING SMALL LOTS

9.1 GENERAL RULE

Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of any zoning regulation, including an interim zoning regulation, 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.

9.2 CONVEYANCE STANDARDS¹. In the event that the pre-existing small lot comes under common ownership with one or more contiguous lots, the lots shall be deemed merged with the contiguous lot. The pre-existing small lot may be subsequently conveyed only if:

- a. The lots are conveyed in their preexisting, nonconforming configuration;
- b. On the effective date of any zoning regulation, each lot had been developed with a water supply and wastewater disposal system;
- c. At the time of the transfer, each water supply and wastewater system is functioning;
- d. The deeds of conveyance create the appropriate easements on both lots for replacement of one or more wastewater systems in case of failure. Failure of a wastewater system is defined as one or more of the following conditions:
 - i. Surfacing or pooling of wastewater on the ground, exposure of wastewater to open air, discharge of wastewater to surface waters, or back up of wastewater into a building or structure unless the design of the system specifically requires such backup; and
 - ii. The contamination of a potable water supply which presents a threat to human health or a serious threat to the environment.

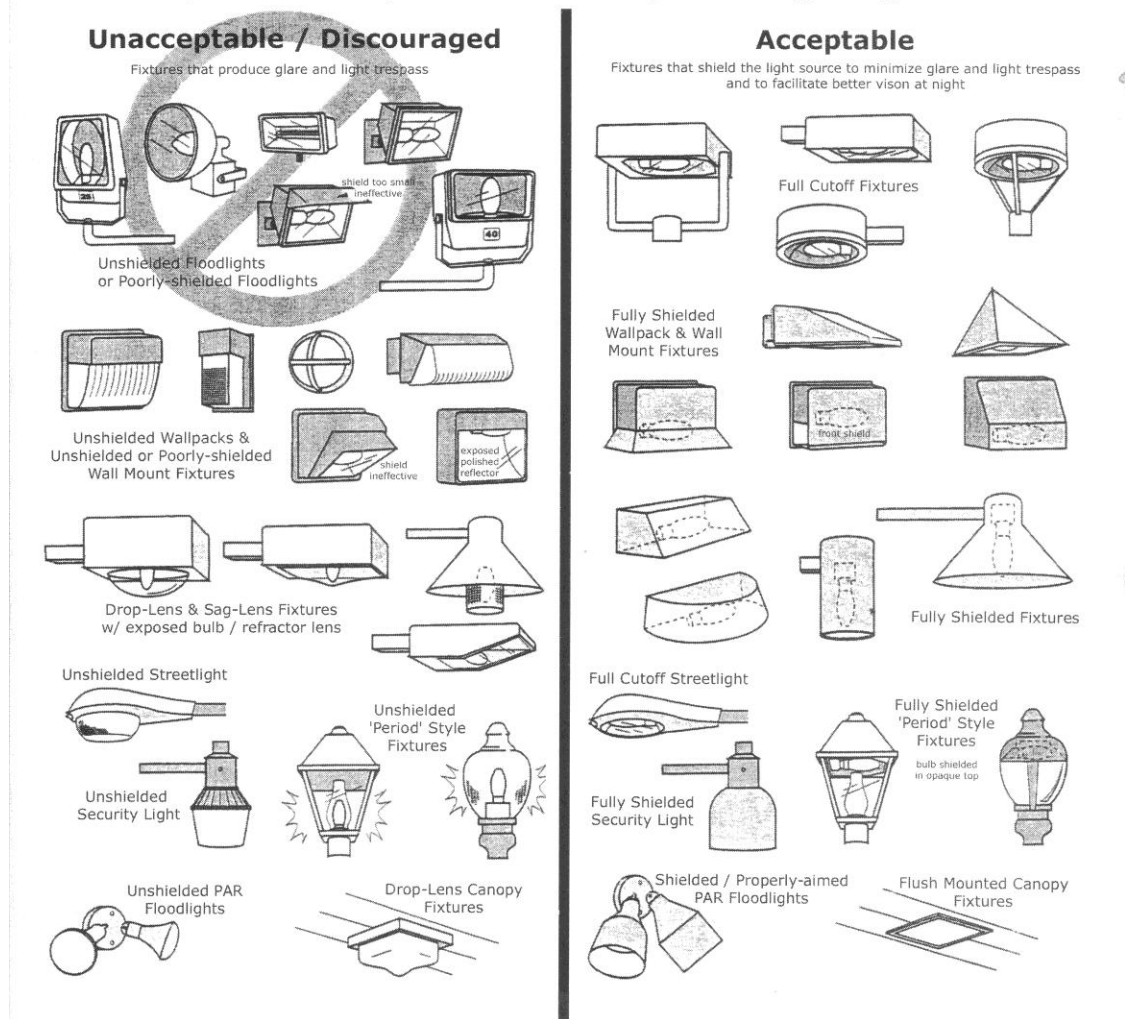
. If subsequent to the conveyance, the wastewater system fails, the owner shall be

required to obtain a wastewater permit as required under subdivision regulations from the Secretary of the Vermont Agency of Natural Resources or, a certification that the wastewater system has been modified or replaced and no longer constitutes a failed system.

SECTION 10 – LIGHTING

The DRB may impose a condition on any application with respect to exterior lighting and light fixtures. The DRB shall specify that light fixtures be “down-casting” and fully shielded light fixtures which shield the light source from view. The general requirement is that lighting shall not illuminate beyond the property boundaries, to the extent possible, to avoid visual impacts to adjoining properties.

Examples of Acceptable / Unacceptable Lighting Fixtures



SECTION 11 – STORAGE UNIT CONSIDERATIONS

The design and structure of storage units shall be consistent with the character of the neighborhood and the applicable zoning district. The Development Review Board may impose conditions in order to ensure that the units are consistent with the character of the neighborhood and the applicable zoning district. For example, the DRB may require screening and size limitations, and may specify the color(s) of the units.

SECTION 12 – STATUTORY LIMITATIONS

A. The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:

1. State- or community-owned and operated institutions and facilities.
2. Public and private schools and other educational institutions certified by the state Department of Education.
3. Churches and other places of worship, convents, and parish houses.
4. Public and private hospitals.
5. Regional solid waste management facilities certified under 10 V.S.A. Chapter 159.
6. Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.

B. A bylaw under this chapter shall not regulate public utility power generating plants and transmission facilities regulated under 30 V.S.A. § 248.

C. Except as otherwise provided by this section and by 10 V.S.A. § 1976, if any bylaw is enacted with respect to any land development that is subject to regulation under state statutes, the more stringent or restrictive regulation applicable shall apply.

D. A bylaw under this chapter shall not regulate accepted agricultural and silvicultural practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets or the Commissioner of Forests, Parks and Recreation, respectively, under subsections 1021(f) and 1259(f) of Title 10 and section 4810 of Title 6. A person shall notify a municipality of the intent to build a farm structure and shall abide by setbacks approved by the Secretary of Agriculture, Food and Markets. No municipal permit for a farm structure shall be required.

SECTION 13 – WIND TURBINES

A. **DEFINITIONS:**

1. Wind Turbine: A device mounted on a tower, pole support or other structure with or without guy wires intended to generate electric power.
2. Wind Turbine Height: The vertical distance from the tip of the blades positioned at their highest elevation to the lowest point of contact of the pole or tower to the ground.

B. **MAXIMUM WIND TURBINE HEIGHT:**

1. The Zoning Administrative Officer may approve wind turbines of 130 feet or less in height as a permitted use in the following zoning districts: Forest Residential Recreation, Rural Residential Agriculture I and II, Village and the Crossett Hill subdistrict of the State Farm District. Proposed wind turbines of 130 feet or less in height shall be permitted as a conditional use in the Forest Management and Wildlife District and State Farm District (except for the Crossett Hill, River Road and Wetland subareas that are conserved by conservation easements and do not allow wind turbines), and must be approved by the Development Review Board.

2. Proposed wind turbines in excess of 130 feet in height shall be permitted as a conditional use in all zoning districts except the Ecological Reserve Lands District, Crossett Hill, River Road and Wetland subdistricts of the State Farm, where wind turbines of any height are not allowed.

C. SETBACKS:

1. Setback distance reference location on the wind turbine shall be defined as the center point of the tower or pole on which the wind turbine is mounted.
2. Setbacks from adjacent property lines, rights-of-way, public rights-of-ways ways or power lines (not to include residential feed lines) shall be 2X the maximum wind turbine height, or 1.5X the maximum calculated ice or blade throw distance to the maximum point of impact, or equal to the manufacturer's requirements and recommendations, whichever is greater and that such calculations shall be determined by a licensed Vermont professional engineer at the owners expense. This setback is not required between properties sharing a windmill. This setback may be reduced by an amount equal in distance to that preserved for fall zone on adjoining properties if documented with a perpetual easement recorded with the town.
3. Wind turbine applications that do not meet the setback distance in (2) above may be reviewed by the DRB as an application for a variance, but in no case may the DRB reduce the setbacks to less than 1.25X the maximum calculated ice or blade throw or 1.75X the maximum wind turbine height, whichever is greater.
4. Wind turbine applications for structures in excess of 130 feet may be reviewed by the DRB as an application for a conditional use, but in no case may the DRB reduce the setbacks to less than 1.25X the maximum calculated ice or blade throw or 1.75X the maximum wind turbine height, whichever is greater.
5. Guy wire anchor points shall meet the zoning district required minimum setback from property line unless perpetual easement has been obtained.

D. SITE LOCATION AND POSITIONING CONSIDERATIONS

1. No wind turbine tower shall be installed between an existing microwave communication link where the wind turbine operation is likely to produce interference.
2. No wind turbine tower shall be installed in any location where its proximity with existing fixed broadcast transmission or reception antenna (including residential reception antenna) for radio, television, wireless phone or other personal communication systems, would produce electromagnetic interference with signal transmission or reception.
3. No wind turbine tower shall be placed in a location where the shadow cast by the rotor blades can pass over any neighboring residential building including outside decks, patios and courtyards not owned by the applicant.

E. SAFETY CONSIDERATIONS

1. No wind turbines shall be permitted that lack an automatic braking, governing or feathering system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, rotor blades, or turbine components.

2. All power transmission lines must be underground.
3. Minimum blade clearance 15 feet above ground.
4. Applicant shall include disclosure of wind turbine manufacturer and statement of setbacks and pertinent safety and maintenance instructions with the permit application to the Town.
5. Any wind turbine not operating for more than 24 months will be considered abandoned and must be removed within 10 weeks upon notice by the Zoning Administrative Officer. The Zoning Administrative Officer may, at his or her discretion, delay this notice by up to 1 year if presented with credible evidence that reactivation of power generation is planned by the owner within that time frame.

F. VISUAL AND AESTHETIC CONSIDERATIONS

1. No lighting on or of tower unless required by state or federal agency.
2. No advertisements or signs on tower.
3. To minimize visual disruption, the wind turbine tower and blades shall be a non-reflective color that blends in into the surrounding environment to the greatest extent possible.
4. The fully operational wind turbine shall have a noise level limit of 5db above ambient measured at nearest property line.

ARTICLE VI -INTERPRETATION AND DEFINITIONS

SECTION 1 – MEANING AND INTERPRETATION

Except where specifically defined herein, all words used in the Regulations shall be interpreted in accordance with their customary meanings. If the meaning of a word or words is undefined or the definition is unclear, the meaning shall be clarified by the Development Review Board. Words used in the present tense shall include the future, and the singular includes the plural; the word “shall” means mandatory; “use” and “occupy” and “occupied” or “used” shall be considered as though followed by the phrase “or intended or intends, arranged or arranges, or designed to be used or occupied.” “Person” includes an individual, partnership, association, corporation, company, or organization.

SECTION 2 – DEFINITIONS

Accessory Dwelling Unit - An efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following: the property has sufficient wastewater capacity, the unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling and applicable setback, coverage, and parking requirements specified in the bylaws are met. (24 V.S.A. § 4412(1)(E)).

Accessory Use or Accessory Building – A use or a building customarily incidental and subordinate to the principal use of a building and located on the same lot.

Affordable housing – Housing that is owned by its inhabitants, whose gross annual

household income does not exceed 80 percent of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes and insurance, is not more than 30 percent of the household's gross annual income, or housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income. 24 V.S.A. § 4303(1)(A).

Agricultural Use – See Farm and Farming

Appropriate municipal panel – A Planning Commission, Development Review Board, or legislative body performing development review.

Basement – Any area of the building having its floor sub-grade below ground level on at least three sides.

Bedroom – Any room within a dwelling that is at least eighty square feet (80 sf) in area, is intended for present or future use as a private sleeping area; has at least one window and one interior method of entry; or which serves primarily as sleeping quarters within a dwelling.

Bed and Breakfast – A place of lodging that provides overnight accommodations for not more than six transient guests. Meals may be provided to registered patrons and their guests, but not to the general public.

Boundary Adjustment – A division of land for the purpose of adjusting borders between adjacent lots or parcels where no new lot is created, and no lot or structure is made nonconforming or more nonconforming.

Building – Structure having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals or chattel. Within flood hazard zones, an above ground gas or liquid storage tank is also considered a building.

Building Height – Vertical distance measured from the average elevations of the proposed finished grade at the front of the building to the highest point of the roof.

Bylaws – Municipal regulations applicable to land development adopted under Title 24, Chapter 117.

Cemetery – Land used for the burial of the dead, and dedicated for cemetery purposes; including columbaria, crematories, mausoleums and mortuaries when operated in conjunction with, and within the boundary of, a cemetery.

Change of Use – The transfer of use of land or structures from one category of use, as listed in the zoning district regulations or defined in this section, to another category of use, or the addition of a use or uses to a building or land, or the cessation of a use or

uses.

Chapter 117 – Title 24, Vermont Statutes Annotated, Chapter 117, the Vermont Municipal and Regional Planning and Development Act, as most recently amended. Also referred to as “the Act.”

Church – See Place of Worship.

Cellar - A space with a floor below grade and a floor to ceiling height of less than six and one-half feet (6 ½ ft.) A cellar shall not be used for habitable space and shall not be counted as a story in the computation of gross floor area.

Childcare Home – In accordance with the Act [§ 4412(5)], a state registered or licensed child care home serving 6 or fewer children on a full-time basis, and up to 4 additional children on a part-time basis, which is conducted within a single-family dwelling by a resident of that dwelling. A child care home as defined shall be considered a permitted use of a single-family dwelling.

Club – Building or use catering exclusively to club members and their guests for private social, recreational or educational purposes and not operated primarily for profit.

Commercial Use – Any wholesale, retail or professional activity carried out for financial gain.

Community Sewer – Sewage disposal system approved by the legislative body and the VT Agency of Natural Resources for municipal operation.

Conditional Use – A use permitted in a particular zoning district only upon showing that such use in a specified location will comply with and conform to all the conditions and standards for the location or operation of such use as specified in these regulations and as approved by the Development Review Board.

Condominium – A building or group of buildings in which the units are owned individually and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis. Condominium refers to a legal form of real property ownership and not a building style.

Conforming Structure or Use – A structure or use that is in conformance with the provisions of these Regulations.

Congregate Housing – A type of housing in which each individual or family has private living quarters and shares with other residents a common dining room, recreational room or other facilities.

Curb Cut – The opening into a roadway for a driveway, measured at the property line, at which point vehicles may enter or leave a property.

Day Care Facility – All state registered or licensed day care facilities which do not

meet the definition of “child care home”, including nonresidential child and adult day care facilities; and home-based child facilities that serve more than six children on a full-time basis.

Development Review Board – The appropriate municipal panel for the Town of Duxbury established under Sec. 4460 of the Act and the provisions of Article 10 of these Regulations.

Driveway – Any improved surface providing vehicular access to a land use from a road, street or highway.

Dwelling – A building or portion thereof, with a kitchen, sleeping area and a bathroom, used or designed for and occupied exclusively for human habitation.

Dwelling, Multi Family – A building containing three or more dwelling units which may be condominiums or cooperatives, but shall not include hotels or motels.

Dwelling, Single Family – A building that contains one (1) principal dwelling and is not physically connected to another dwelling.

Dwelling, Two-Family – A building containing two (2) principal dwelling units that are entirely separated by a vertical wall or horizontal floor. Also known as a duplex.

Dwelling Unit – A building or portion thereof having independent cooking, bathing and sleeping facilities designated for occupancy as a residence by only one (1) household unit.

Easement – A grant of one or more property rights by a property owner to another for use by the public, a corporation, or another person or entity.

Essential Municipal Services – The construction, alternation or maintenance of facilities used for the provision of essential public services, including but not limited to town office facilities, town garage facilities, municipal waste water treatment facilities, municipal water treatment facilities, and public utility power generating and transmission facilities.

Family or Household – One or more persons living, sleeping, cooking and eating on the same premises as a single housekeeping unit.

Farm – A parcel associated with agricultural use, specifically the cultivation, breeding or raising plants or animals, and as defined by the most current Vermont Agency of Agriculture Required Agricultural Practices (RAPs).

Farming or Agriculture – One or more of the following activities: The cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural or orchard crops; the raising, feeding or management of livestock, poultry, fish, or bees; the operation of greenhouses; the production of maple syrup; the on-site storage, preparation and sale of agricultural products principally produced on the farm; the on-site production

of fuel or power from agricultural products or wastes produced on a subject farm; the raising, feeding and management of four or more equines owned or boarded by a farmer; and as defined by the most current Vermont Agency of Agriculture RAPs.

Farm structure – A building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices and as defined in the Vermont Agency of Agriculture RAPs.

Fence – Any material or combination of materials erected to enclose, screen or separate areas of land.

Forestry Use – The growing and harvesting of trees or timber other than for their fruit; as defined in 10 V.S.A. Sec. 2602(e).

Forestry Operation – Activities related to the management of forests, including timber harvest; pruning; planting; reforestation; pest, disease and invasive species control; wildlife habitat management; and fertilization. “Forestry operation” includes the primary processing of forest products of commercial value on a parcel where timber harvest occurs (10 V.S.A. Sec. 2602(e)).

Foundation – A permanent structure that supports a building or its component elements, including but not limited to porches and decks. The term “foundation” shall also include walls, poured or compacted slabs, concrete piers or other footings that provide a base for structural support.

Garage, Private – An accessory structure, either attached to or separate from the primary structure, intended for parking and/or storage of motor vehicles for personal use.

Home Occupation – Any use conducted entirely within a dwelling or accessory structure and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof.

Inn – A building or group of buildings with up to twenty (20) guest rooms where overnight lodging is provided for compensation, and meals are provided. If meals are provided to persons other than overnight guests of the property, no more than fifty (50) seats including bar stools shall be permitted unless a restaurant use has been permitted by the DRB for the property.

Land Development – The division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure change in the use of any building or other structure; any mining, excavation or landfill; or any extension of use of land; provided that land development shall not include construction of fences on working farms.

Light Industry – Any industrial or manufacturing use having not more than 20 employees and occupying not more than 20,000 square feet of floor and storage area in the aggregate; and where no process involved will produce air or water pollution, fire

hazard or any noxious emissions.

Lot – Land occupied or to be occupied by a building and its accessory buildings, together with the required open spaces, having not less than the minimum area, width and depth required for a lot in the district in which such land is situated, and having frontage on a street, or other means of access as may be determined by the Development Review Board to be adequate as a condition of the issuance of a zoning permit.

Lot area – Total area within the property line excluding any part thereof lying within the boundaries of a public street, or proposed public street.

Manufacturing – Any process whereby the nature, size or shape of articles or raw materials are changed, or articles are assembled and/or packaged for profit. Processing of produce where raised shall not be considered manufacturing.

Mixed Use Development – The development of a tract of land or building or structure with two or more different uses, such as, but not limited to, residential, office, manufacturing, retail, public or entertainment, in a compact form.

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

- transportable in one or more sections; and
- at least eight feet wide or 40 feet long or when erected has at least 320 square feet or if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32 feet long; or
- any structure that meets all the requirements of this subdivision except for size and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the standards established under Title 42 of the U.S. Code. 10 V.S.A. § 6201(1).

Mobile Home Park – Any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate, more than two mobile homes. Nothing herein shall be construed to apply to premises used solely for storage or display of mobile homes. Mobile Home Park does not mean any parcel of land under the ownership of an agricultural employer who may provide up to four mobile homes used by full-time workers or employees of the agricultural employer as a benefit or condition of employment or any parcel of land used solely on a seasonal basis for vacation or recreational mobile homes. 10 V.S.A. § 6201(2).

Moderate Income Housing – Housing that is affordable, according to the U.S. Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that is greater than 50 percent but does not exceed 80 percent of the median gross household income for households of the same size within the housing region in which the housing is located.

Modular (or Prefabricated) Housing – A factory-built structure which is manufactured or constructed to be used as a place for human habitation, but which is not constructed or

equipped with a permanent hitch or other device allowing it to be attached or towed behind a motor vehicle, and which does not have permanently attached to its body or frame any wheels or axles.

Motel – Building containing rooms which are rented as a series of sleeping units for transient use, each sleeping unit consisting of at least a bedroom and bathroom.

Nonconforming Lots or Parcels – Lots or parcels that do not conform to the present bylaws covering dimensional requirements but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the administrative officer. 24 V.S.A. § 4303(13).

Nonconforming Structure – A structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the administrative officer. 24 V.S.A. § 4303(14).

Nonconforming Use – Use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the administrative officer. 24 V.S.A. § 4303(15).

Open Space – That undeveloped portion of any development parcel which is not occupied by buildings, streets, rights-of-way, driveways, parking spaces, house lots, individual yard areas, or lands so intensively used as to render them, in the judgment of the Development Review Board, inconsistent with this definition.

Parcel – A tract of land capable of being described in definitive terms, under ownership by any entity, which may be divided by a public road or right-of-way, and which may contain more than one lot.

Parking Space – Off street space used for the temporary location of one licensed motor vehicle, which is at least ten feet wide and twenty-two feet long, not including access driveways, and having direct access to a street or approved right-of-way.

Person – An individual, a corporation, a partnership, an association, and any other incorporated or unincorporated organization or group.

Plan – Municipal plan adopted under 24 V.S.A. Sec. 4348.

Planning Commission – A planning commission for the Town of Duxbury created under subchapter 2 of Title 24, Chapter 117.

Planned Unit Development – An area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, commercial and/or industrial uses, if any, the plan for which does not correspond in lot size, bulk, or type of dwelling, commercial and/or industrial uses, density, lot coverage and required open space to the

regulations established in any one or more districts created in this zoning regulation.

Plat – A map representing a tract of land showing boundaries and locations of individual properties and streets or roads; a map of a subdivision.

Primitive Camp – A living unit, the occupancy of which neither exceeds three (3) consecutive weeks per calendar year, nor exceeds a total of 60 days per calendar year, that has no interior plumbing, except for one sink with water. Primitive camps may contain a composting toilet or incinerating toilet that does not yield a liquid provided its contents are disposed of in compliance §1-929 of the Vermont Water and Wastewater Rules.

Professional Office – An office occupied by a member of a recognized profession for the purposes of conducting professional activities.

Public Notice – The form of notice prescribed by sections 4444, 4449, or 4464 of Title 24 as the context requires.

Public Utility – A business or service which is engaged in regularly supplying the public with some commodity or service which is of public consequence and need, such as electricity, gas, water, transportation, telephone, or waste water treatment.

Recreation Facility – Public and private, indoor and outdoor, land or buildings used for the purpose of recreation. Including but not limited to: golf driving range and courses, skating rinks, gymnasiums, swimming pools, hobby workshops, trapping, skeet and archery ranges, riding stables, parks, tennis courts, skiing facilities, publicly owned and operated playgrounds, play fields, open spaces and other forms of recreational activities.

Recreation Facility Commercial - A recreational facility operated as a business and open to the public for a fee.

Recreation Non-Commercial – A low intensity, non-profit recreational facility/property used for activities such as, hiking, nature study, cross country skiing, hunting and fishing.

Recreational Vehicle (RV) or Travel Trailer - A motor vehicle designed for road travel, camping or other temporary use that is built on a chassis, 400 sq ft or less; designed to be self-propelled, or towable by a pickup truck or mounted in the bed of a pickup truck; and not designed for use as a permanent dwelling, but for temporary living quarters for recreational, camping, travel or seasonal use.

Regional Plan – A plan adopted under Sec. 4348 of Title 24

Regional Planning Commission – A planning commission for the region created under subchapter 3 of Title 24, Chapter 117.

Residential Care Facility – An institution or facility other than a hospital or nursing home, operated under state licensing or registration, that provides care for persons who have a handicap or disability, or physical or mental impairment, as defined in 9 V.S.A.

Sec. 4501(2) and (3), and which does not include facilities for the treatment of illness or injuries (other than minor acute illness) or for surgical care; or a residential facility or transitional housing for the developmentally disabled, victims of domestic violence or homeless persons or households.

Restaurant – An establishment where food and drink are prepared and served to the general public. The term “restaurant” does not include self-propelled or towable facilities, such as food trucks.

Retail Store – Customary use of enclosed restaurant, café, shop and/or store for the sale of goods at retail, personal service shop and department store, excluding any drive-up service, free standing retail stand, gasoline service and motor vehicle repair service, new and used car sales and service and trailer and mobile home sales and service. Retail stores are characterized by regular hours, signs and advertising, and the need for customer parking.

Seasonal Dwelling – A dwelling unit which is not a primary residence of the owner or occupant, and is occupied only on a part-time and seasonal basis, for no more than six consecutive months, including the summer months.

Signs – A structure, building wall, or other outdoor surface, or any device used for visual communication, for the purpose of bringing a subject to the attention of the public, or to display, identify, advertise, and/or publicize the name, product, or service of any person.

Sign, Freestanding – Any self-supporting sign that is installed in the ground, not including movable or folding sandwich-board type signs.

Signs, Permanent – Any freestanding sign, or sign that is affixed to a building, and which is installed for a period of indefinite duration, not including movable or sandwich-board signs.

Signs, Temporary – Any sign that is installed for a period of limited duration, including movable and/or sandwich-board signs.

Single and Separate Ownership – The ownership of property by any person which is separate and distinct from the ownership of any adjoining property.

Site Plan – The development plan for one or more lots on which is shown the existing and proposed development of the lot(s).

Storage Units – A commercial structure containing separate, individual and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

Street or Road Frontage – Lot lines which abut a public or private street or road.

Structure – An assembly of materials for occupancy or use, including, but not limited to: a building, mobile home, trailer, sign, wall, fence, deck, or patio.

Subdivision – Division of a lot, tract, or parcel of land into two or more lots, tracts, or parcels or other divisions of land for sale or development. A subdivision shall also include the redivision or relocation of the lot lines of any lot or lots within a subdivision previously approved.

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

Temporary Structure – Any structure which can be relocated easily, has no permanent foundation, is designed for limited use, and is erected for no longer than six months a year including the summer months.

Trailer Park – Any land used or designed to be used as a parking space for more than one (1) travel trailer.

Travel Trailer – A vehicle utilized for camping or other temporary use, and not occupied as a dwelling for a period of more than three (3) months in a calendar year.

Variance – A deviation from the land use or density requirements of these Regulations as may be granted by the DRB under Sec. 4469(a)(1-5) of the Act.

Waiver – A relaxation of minimal setback, distance or dimensional requirements of these Regulations as may be granted by the DRB under Sec. 4414(8)(a) of the Act and these Regulations.

Wetlands – Those areas of the state that are inundated by surface or groundwater with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs, and ponds, but excluding such areas as grow food or crops in connection with farming activities.