

# Enosburg Falls Village

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## LAND USE AND DEVELOPMENT REGULATIONS

**Adopted by the Village Trustees on: August 26, 2008**

**Amended by the Village Trustees on: June 23, 2009**

**Amended by the Village Trustees on: July 16, 2014**

**Amended by the Village Trustees on: June 23, 2015**

**Effective on: July 14, 2015**



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## **ARTICLE 1. AUTHORITY AND PURPOSE**

### **SECTION 1.1. STATUTORY AUTHORIZATION AND ENACTMENT**

Land Use and Development Regulations for the Village of Enosburg Falls are hereby established as authorized in Section 4401 of the Vermont Municipal and Regional Planning and Development Act (Title 24, Chapter 117 of the Vermont Statutes Annotated; hereinafter referred to as “the Act”).

### **SECTION 1.2. PURPOSE**

The purpose of this bylaw is:

- To implement the Enosburg Falls Municipal Plan (adopted August 13, 2013), including any future amendments;
- To further the purposes of the Act;
- To promote the health, safety, and general welfare of the inhabitants of Enosburg Falls;
- To provide for orderly community growth;
- To maintain and enhance the natural beauty and environment of the Village;
- To encourage subdivision design that protects steep slopes, surface waters, wildlife habitat, wetlands, native vegetation, existing landforms, and the Village’s historical and archeological resources;
- To provide the most beneficial relationship between uses of land and buildings and the safe and convenient movement of pedestrian and vehicular traffic;
- To provide for the preservation, protection, and/or conservation of natural resources such as wildlife habitat, wetlands, and natural vegetation, and to encourage the wise use and management of natural resources in order to preserve the integrity, stability, and beauty of the Village and the value of land;
- To provide for public facilities and services such as parks, open spaces, recreation areas, schools, police and fire protection, emergency medical care, off-street parking, water supply, and sewage disposal;
- To ensure that existing public services and facilities are available, will be available, and will have sufficient capacity to serve any proposed land development or subdivision; and
- To require, as appropriate, the cost of improvements necessary for proposed land development or subdivision, of which will benefit its eventual residents, be paid by the proponent of such land development or subdivision.

### **SECTION 1.3. APPLICABILITY**

A) All land development and land subdivision within the Village of Enosburg Falls shall comply with these regulations and shall not commence without obtaining the permits and approvals as required in these regulations. Land development, for the purposes of these regulations means:

*The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill and any change in the use of any building or other structure or land or*

*extension of use of land. In the Flood Hazard Overlay District only, land development is expanded to mean any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.*

Land Subdivision for the purposes of these regulations means:

*The division of any parcel of land into two or more parcels for the purposes of sale, conveyance, lease, or development. The term “subdivision” includes boundary line adjustments.*

- B) This bylaw shall not repeal, abrogate, or impair any other land use controls including but not limited to statutes, regulations, rules, ordinances, permits, easements, deed restrictions, and covenants. However, the provisions of this bylaw shall be minimum requirements that shall take precedence over any concurrent and less restrictive controls.

#### **SECTION 1.4. DEFINITIONS**

Except as defined in Article 10 of these regulations, all words shall carry their customary meanings; any interpretation of words or terms in these regulations by the Zoning Administrator may be appealed to the Development Review Board for a declaratory ruling.

#### **SECTION 1.5. SEVERABILITY**

The provisions of these regulations are severable. If any provision or application of these regulations is found to be invalid, the invalidity will not affect other provisions or applications of the regulations.

#### **SECTION 1.6 AMENDMENT AND EFFECTIVE DATE**

These regulations may be amended only in conformance with Section §4441 and §4442 of the Act. An amendment shall be effective 21 days after being adopted by the Village Trustees, unless within 20 days of adoption, 5 percent of the voters petition for a meeting to consider the bylaw or amendment by Australian Ballot.

**TABLE 1.1  
MUNICIPAL PERMITS AND APPROVALS: VILLAGE OF ENOSBURG FALLS**

<b>Permit/Approval</b>	<b>Required for</b>	<b>Issued by</b>	<b>See</b>
Zoning Permit	All land development as defined in Article 10, including signs, accessory structures, conversions and changes of use unless specifically exempted from these regulations under section 3.1.	Zoning Administrator	Section 3.1
Access by Right-of-Way Approval	Development on or access to lots without frontage on a maintained public road or public waters.	Development Review Board	Section 4.2
Conditional Use Approval	All uses classified as conditional uses in certain zoning districts in Table 2.1 and nonconformities under Section 4.8.	Development Review Board	Section 3.2
Site Plan Approval	All uses identified as requiring site plan review in certain zoning districts in Table 2.1 and excavation filling and/or regrading of land characterized by a slope of 15% or greater according to Section 4.3.	Development Review Board	Section 3.3
Variance Approval	Requests for a variance from the provisions of these regulations.	Development Review Board	Section 3.4
Flood Hazard Area Development Approval	Requests for land development in the Flood Hazard Overlay District.	Development Review Board	Section 3.6
Planned Unit Development (PUD) Approval	Land subdivision and/or land development, which incorporates modifications from the provisions of these regulations to meet specific purposes as specified in Article 6 of these regulations.	Development Review Board	Article 6
Certificate of Occupancy	Use of a dwelling or structure constructed after the effective date of these regulations for which a zoning permit has been issued.	Zoning Administrator	Section 9.2
Subdivision Approval	All land subdivisions as defined in Article 10, including boundary line adjustments.	Development Review Board	Article 7
Sketch Plan Approval	All applications for subdivision approval.	Development Review Board	Section 7.4(B)
Preliminary Plan Approval	All applications for major subdivisions (as defined in Section 7.3), unless otherwise required by the DRB.	Development Review Board	Section 7.4(C)
Final Plan Approval	All applications for subdivision approval.	Development Review Board	Section 7.4(D)
Plat Recording	All approved subdivisions of land, including boundary line adjustments.	Development Review Board	Section 7.5

Enosburg Falls Zoning Map



## **ARTICLE 2. ZONING DISTRICTS AND DISTRICT STANDARDS**

### **SECTION 2.1 ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL MAP**

A) The Village of Enosburg Falls is hereby divided into the following zoning districts:

- Agricultural/Rural Residential District
- Central Business District
- Commercial District
- Conservation District
- High-Density Residential District
- Industrial District
- Low-Density Residential District
- Recreation District

B) In addition, the Flood Hazard Area Overlay District is established to protect the Village's flood hazard areas. The overlay district imposes an additional layer of regulations, as provided in Article 4, upon the lands in the Flood Hazard Overlay District. Where the provisions of the underlying district differ from those of the Flood Hazard Overlay District, the more restrictive shall govern.

C) The Official Zoning Map for the Village of Enosburg Falls Land Use and Development Regulations shall consist of:

- 1) The Village of Enosburg Falls Zoning Map, located at the village offices, identified by the signatures of the Village Trustees, attested by the Village Clerk; and
- 2) The most current flood insurance studies and maps, published by the Department of Homeland Security (DHS), Federal Emergency Management (FEMA), and National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Section 753.

### **SECTION 2.2 INTERPRETATION OF ZONING DISTRICT BOUNDARIES**

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

- A) Boundaries indicated as approximately following the centerlines of roads, streams, transportation and utility rights-of-way shall be construed to follow such centerlines. The abandonment of roads and/or rights-of-way shall not affect the location of boundaries.
- B) Boundaries indicated as approximately following lot lines shall be construed to follow such lot lines.
- C) Boundaries indicated as following shorelines shall be construed as following the shoreline at the mean (average) water level.

- D) Boundaries indicated as parallel to, or as extensions of features in A), B), and C) above shall be so construed.
- E) When the Zoning Administrator cannot definitely determine the location of a district boundary line by the above rules or by the scale or dimensions on the Official Zoning Map, the Development Review Board shall interpret the district boundaries.
- F) Where a district boundary line divides a lot in single ownership on and after the effective date of this bylaw or of amendments thereto, the Development Review Board may permit, as a conditional use, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

### SECTION 2.3 APPLICATION OF DISTRICT STANDARDS

- A) **Agricultural/Rural Residential (ARR).** The purpose of this district is to maintain the predominantly agricultural character of the area with its scattered residences. Since much of this district is prime farmland, new residential and other non-farm development will be reviewed to ensure minimal interference with continuing agricultural use. Planned unit development, the clustering of houses and developments that do not remove land from production will be encouraged by a density bonus (See Section 6.5).
- B) **Central Business District (CB).** The purpose of the central business district is to provide a concentrated area to serve the business, service, and social needs for the community as well as the region. The historical character of the district focuses upon pedestrian access to a mixture of retail sales, personal services, professional services, business offices, and high density residences tightly spaced with minimal setback from the street. Residential uses add interest and vitality to the area and accommodate those who desire high-density housing.

Pedestrian travel will be encouraged by well-maintained and landscaped walkways which connect the district to other commercial and residential areas of the village. Public open space is provided for rest and recreation, and to increase the district's scenic quality. Public events such as art exhibits, musical events, craft fairs, and farmers markets are encouraged. See Section 3.2 and 3.3 for specific standards for the Central Business District.

- C) **Commercial District (CM).** The purpose of the commercial districts is to provide areas with public water and sewer for larger-scale, land-intensive retail, commercial, and high-density residential development which may not be suited to location in the central business district. These areas are intended to complement the central business district, and efforts will be made to connect them by attractive pedestrian paths, internal roadways, and landscaping.

The commercial districts are located at entrances to the village, and they must be designed to create a positive first impression for visitors. Master planning will be encouraged in order to promote efficient and economic connection with existing services and facilities. Development within the district will be reviewed to ensure attractiveness of sight design and signs. Strip development will be controlled by limiting the number of curb cuts and

requiring consolidated access points onto RTE 105. See Section 3.2 and 3.3 for specific standards for the Commercial District.

- D) Conservation District (CON).** The purpose of this district is to protect the scenic and natural resource value of lands which lack direct access to public roads, are important for wildlife and wildlife habitat, and which are poorly suited for development. Location, topography, and soil limitations make lands in this district unsuitable for intensive development. Included are areas of steep slope and wetlands. No public water or sewer facilities are planned for these areas.
- E) High Density Residential District (HD).** The purpose of this district is to maintain the privacy, and property values in established traditional residential neighborhoods. Industrial and most commercial uses should not be allowed in this district to maintain a safe, residential character. This area is served by public services and facilities. Efforts to retain and improve the quality and vitality of older neighborhoods through restoration of deteriorating buildings should be encouraged. Residential development in this district should provide for a variety of dwelling types and for the needs of people of all income levels and ages.
- F) Industrial District (IND).** The purpose of this district is to provide an area with good highway access and municipal water and sewerage for manufacturing, warehousing, research and development, and their accessory uses. Since these are intensive uses with potential impacts and hazards to public health and welfare, all uses within the district shall receive conditional use review by the Development Review Board. Master planning is encouraged in order to promote efficient and economic connection with existing services and facilities. See Section 3.2 and 3.3 for specific standards for the Industrial District.
- G) Low Density Residential District (LD).** The purpose of this district is to provide opportunities for residential development at densities appropriate to the physical capability of the land outside of the more densely settled village area. These areas have public water supplies, and may or may not have municipal sewerage. A density bonus will be offered to encourage clustering of dwellings in this district in order to conserve open land for recreation, aesthetics, agriculture, and forestry (See Section 6.5).
- H) Recreation District (REC).** The purpose of this district is to reserve areas for current and future outdoor recreational facilities. The district includes areas within the village that are presently being used for private and/or public recreation as well as additional areas to be reserved for the development of outdoor recreation facilities. It is intended that no development other than outdoor recreational use occur in this district.
- I) Flood Hazard Overlay District (FH).** The purpose of this district is to prevent increases in flooding caused by development in flood hazard areas, to minimize future public and private losses due to flood, and to promote the public health, safety, and general welfare. Designation of this district is also required for continued Village eligibility in the National Flood Insurance Program. Included are all areas of special flood hazard in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance

Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753. The Flood Hazard District overlays other districts and places additional restriction upon development in the areas to which it applies.

In addition to meeting all other applicable standards in these regulations, Flood Hazard Area Development Review under Section 3.6 is required for single family dwellings, accessory uses and structures, outdoor recreation, public facilities, and any substantial improvement to an existing structure. All other land development is prohibited within the Flood Hazard Overlay District. Flood Hazard Area Development Review may be conducted concurrently with any other required development approvals as provided in Section 9.1(K).

#### **SECTION 2.4 ZONING DISTRICT USES AND DIMENSIONAL STANDARDS**

- A)** All uses and structures must meet the district dimensional requirements and all other applicable provisions of these regulations except as authorized by a variance or by approval of a planned unit development.
  
- B)** Table 2.1 lists uses and structures for each district (except the Flood Hazard Overlay District, see Section 2.3(I) above), which may be permitted (P), permitted with site plan approval (P/S), conditionally permitted (C), conditionally permitted with site plan approval (C/S), or not allowed (R). Procedures for review include the following:
  - 1) Permitted uses and structures may be approved by the Zoning Administrator. However, permitted uses may also require site plan approval from the Development Review Board prior to issuance of a zoning permit, as provided in Section 3.3.
  - 2) Conditional uses and structures require conditional use approval by the Development Review Board, as provided in Section 3.2. Conditional uses may also require site plan approval from the Development Review Board, as provided in Section 3.3. Conditional use review and site plan review may be completed concurrently, as provided in Section 9.1(K).
  - 3) Restricted uses are not allowed in the zoning district.
  - 4) Uses not listed in Table 2.1 are not allowed in any zoning district unless specifically enabled in other sections of these bylaws.

**Table 2.1 Allowed Uses by Zoning Districts (See Section 2.3(I) for allowed uses in the Flood Hazard Overlay)**

“P” – Permitted Use “C” – Conditional Use “S” – Site Plan Review “R” – Not Allowed

See section 2.3 to decipher Zoning District abbreviations. ARR CB CM CON HD IND LD REC

Residential Uses								
Accessory Dwelling	P	P	P	R <sup>1</sup>	P	R <sup>1</sup>	P	P
Mobile Home Park (See Section 5.11)	R	R	R	R	R	R	C/S/ PUD	R
Multi-Family Dwelling	R	P/S	C/S	R	P/S	R	R	R
Multiple Tenant Elderly Housing	C/S	P/S	C/S	R	P/S	R	C/S	R
Single-Family Dwelling	P	R	R	R	P	R	P	R
Two-Family Dwelling	P	P	R	R	P	R	P	R
Commercial Uses								
Accessory Use or Structure	P/S <sup>2</sup>	P/S <sup>2</sup>	P/S <sup>2</sup>	C/S <sup>2</sup>	P/S <sup>2</sup>	C/S <sup>2</sup>	P/S <sup>2</sup>	P/S <sup>2</sup>
Adaptive Reuse of Historic Structure (See Section 5.2)	C/S	C/S	C/S	R	C/S	R	C/S	C
Agribusiness	C/S	C/S	C/S	R	R	C/S	C/S	R
Auction House (inside)	C/S	C/S	C/S	R	R	R	R	R
Automobile Repair (See Section 5.3)	C/S	C/S	C/S	R	R	R	R	R
Automobile Sales and or Rental	R	C/S	C/S	R	R	R	R	R
Bed and Breakfast	P	P	P	R	P	R	P	R
Building Contractor Yard	C/S	R	C/S	R	R	C/S	C/S	R
Business or Professional Office	R	P/S	P/S	R	R	C/S	R	R
Building Materials Dealer	R	R	C/S	R	R	C/S	R	R
Campground (See Section 5.4)	C/S	R	R	R	R	R	C/S	C/S
Car Wash	R	R	C/S	R	R	C/S	R	R
Child Care Facility	C/S	P/S	P/S	R	C/S	C/S	P/S	C/S
Child Care Home (See Section 5.5)	P	P	P	R <sup>1</sup>	P	R <sup>1</sup>	P	R <sup>1</sup>
Commercial School	R	C/S	C/S	R	R	R	C/S	R
Communications Studio	R	C/S	C/S	R	R	R	R	R
Community Care Facility (See Section 5.8(B))	C/S	C/S	C/S	R	C/S	R	C/S	R
Convenience Store	R	P/S	P/S	R	C/S	R	C/S	R

**Table 2.1 Allowed Uses by Zoning Districts (See Section 2.3(I) for allowed uses in the Flood Hazard Overlay)**

“P” – Permitted Use “C” – Conditional Use “S” – Site Plan Review “R” – Not Allowed

<i>See section 2.3 to decipher Zoning District abbreviations.</i>	ARR	CB	CM	CON	HD	IND	LD	REC
Cultural Facility	C/S	P/S	P/S	R	C/S	R	C/S	C/S
Drive-In Establishment	R	C/S	C/S	R	R	R	R	R
Extraction and Quarrying (See Section 5.6)	C/S	R	R	R	R	C/S	C/S	R
Farmers Market	P/S	P/S	P/S	R	C/S	R	C/S	C/S
Financial Institution	R	P/S	C/S	R	R	R	R	R
Funeral Home	R	C/S	C/S	R	C/S	R	C/S	R
Gas Station (See Section 5.3)	R	C/S	C/S	R	R	C/S	R	R
Group Home (See Section 5.8B)	P	R	R	R	P	R	P	R
Hazardous Materials (See Section 4.5)	R	R	R	R	R	C	R	R
Hazardous Waste Management Facility	R	R	R	R	R	C/S	R	R
Home Industry (See Section 5.9)	C	R	C	R	R	C	C	R
Home Occupation (See Section 5.9)	P	P	P	R <sup>1</sup>	P	R <sup>1</sup>	P	R <sup>1</sup>
Hospital/Health Clinic	R	C/S	C/S	R	R	R	C/S	R
Indoor Flea Market	C/S	R	C/S	R	R	R	C/S	R
Kennel or Veterinary Clinic	C/S	R	C/S	R	R	R	C/S	R
Light Manufacturing	R	R	C/S	R	R	C/S	R	R
Lodging Facility	R	C/S	C/S	R	R	R	C/S	R
Manufacturing	R	R	R	R	R	C/S	R	R
Mineral or Gas Exploration	C/S	R	R	R	R	R	R	R
Mixed Use (See Section 5.10)	C	C	C	C	C	C	C	C
Nursing Home	C/S	C/S	C/S	R	C/S	R	C/S	R
Parking Facility	R	C/S	C/S	R	R	R	R	R
Personal Service Establishment	R	P/S	P/S	R	R	R	R	R
Personal Storage Units	R	R	C/S	R	R	C/S	R	R
Recreation Indoor	C/S	C/S	C/S	R	R	R	C/S	C/S
Recreation Outdoor	C/S	R	R	C/S	R	R	C/S	C/S

**Table 2.1 Allowed Uses by Zoning Districts (See Section 2.3(I) for allowed uses in the Flood Hazard Overlay)**

“P” – Permitted Use “C” – Conditional Use “S” – Site Plan Review “R” – Not Allowed

<i>See section 2.3 to decipher Zoning District abbreviations.</i>	ARR	CB	CM	CON	HD	IND	LD	REC
Recreation Public Outdoor	P	P	P	R	P	R	P	P
Redemption Center	R	C/S	C/S	R	R	R	R	R
Rental Business	R	C/S	C/S	R	R	R	R	R
Research/Testing Facility	R	R	C/S	R	R	C/S	R	R
Restaurant	R	P/S	P/S	R	R	R	C/S	R
Retail Sales & Service (≥50,000 sqft retail area)	R	C/S	C/S	R	R	R	R	R
Retail Sales & Service (<50,000 sqft retail area)	R	P/S	P/S	R	R	R	R	R
Roadside Stands	P	R	P	R	R	R	P	P
Salvage Yard	R	R	R	R	R	C/S	R	R
Sawmill	C/S	R	R	R	R	C/S	R	R
Slaughterhouse	C/S	R	R	R	R	C/S	R	R
Solid Waste Transfer Station	R	R	R	R	R	C/S	R	R
Small Motor Vehicle Sales/Rental/Repair	C/S	C/S	C/S	R	R	R	R	R
Storage/Distribution Facility	R	R	C/S	R	R	C/S	R	R
Tavern/Bar	R	C/S	C/S	R	R	R	R	R
Transit Facility	R	C/S	C/S	R	R	R	R	R
Truck Terminal	R	R	C/S	R	R	C/S	R	R
<b>Other Uses</b>								
Cemetery	P/S	R	R	R	R	R	P/S	R
Community Center	R	P/S	C/S	R	C/S	R	R	C/S
Educational Facilities	R	P/S	C/S	R	P/S	R	C/S	R
Group Homes (with less than 9 people, see Section 5.8)	P	P	P	R <sup>1</sup>	P	R <sup>1</sup>	P	R <sup>1</sup>
Place of Worship	P/S	P/S	P/S	R	P/S	R	P/S	R
Private Club	C/S	P/S	P/S	R	C/S	R	C/S	C/S
Public Facilities	C/S	C/S	C/S	R	C/S	R	C/S	R
Telecommunication Facility (See Section 5.13)	C	C	C	C	C	C	C	C
Wind Energy Conversion System (See Section 5.14)	C	C	C	C	C	C	C	C

<sup>1</sup> The use shall be a permitted use of property where there is a pre-existing single family home in the district.

<sup>2</sup> Site plan approval is only required for non-residential accessory structures and uses.



**Table 2.2 Dimensional Standards by Zoning District**

	ARR	CB	CM	CON	HD	IND	LD	REC	FH
Min. Lot Size	SF Dwelling – 2 Ac Other Uses – 2.5 Ac	①	20,000 sq ft	②	SF Dwelling–10,000 sq ft 2F & MF Dwellings–20,000 sq ft Other Uses–40,000 sq ft	80,000 sq ft	SF Dwelling w/ onsite water and sewer – 40,000 sq ft SF Dwelling w/ offsite water and/or sewer – 20,000 sq ft Other Uses – 60,000 sq ft	2 Ac ④	40,000 sq ft
Min. Frontage	SF & 2F Dwelling – 200 ft Other Uses – 250 ft	①	75 ft	②	SF Dwelling–75 ft 2F and MF Dwellings–100 ft Other Uses–125 ft	200 ft	SF and 2F Dwellings – 150 ft Other Uses – 200 ft	100ft ④	100 ft
Min. Lot Depth	None Specified	①	100 ft	②	None Specified	200 ft	None Specified	100ft ④	⑤
Min Setback Road	50 ft	①	15 ft	②	SF, 2F, & MF Dwellings–③ Other Uses – 50 ft	75 ft	50 ft	50 ft ④	⑤
Min. Setback Side Yard	25 ft	①	15 ft	②	SF, 2F, & MF Dwellings–15 ft Other Uses–25 ft	50 ft	SF and 2F Dwellings – 15 ft Other Uses – 25 ft	25 ft ④	⑤
Min. Setback Rear Yard	30 ft	①	15 ft	②	SF Dwellings–10 ft 2 F and MF Dwellings–25 ft Other Uses–30 ft	50 ft	30 ft	30 ft ④	⑤
Min. Setback River/ Stream	50 ft	①	100 ft	②	50 ft	100 ft	50 ft	50 ft ④	⑤

- ① The front yard setback for structures in this district shall be the average of the front yard setbacks of the principal buildings located on either side of the proposed structure, but in no event is a greater setback that 25 feet required. No other dimensional requirements are stipulated.
- ② The DRB may specify dimensional requirements.
- ③ Minimum front yard setbacks for single, two, and multi-family dwellings will be determined by the existing setbacks of the neighboring properties. The minimum front yard setback shall be equivalent to the closest setback of existing dwellings on lots adjacent to the property. The maximum front yard setback shall be equivalent to the farthest setback of existing dwellings on lots adjacent to the property. In cases where there is only one adjacent property, or no adjacent properties the average setback on the street shall be used. For existing structures, the minimum front yard setback shall be 25 ft.
- ④ No dimensional requirements specified for uses other than outdoor recreation. For all other uses requiring conditional use review, the DRB may specify dimensional requirements.
- ⑤ Same as underlying District.

## **ARTICLE 3. DEVELOPMENT REVIEW**

### **SECTION 3.1 ZONING PERMITS AND APPROVALS**

- A) Applicability.** No land development, as defined in Article 10, shall commence in the Village of Enosburg Falls without a zoning permit issued by the Zoning Administrator in accordance with Section 9.1(C), unless specifically exempted from the provisions of these regulations below. Where conditional use approval, site plan approval, a variance, or flood hazard area development approval is required, such approval is required prior to issuance of a zoning permit.
- B) Local Exemptions.** Garage/lawn/porch sales that do not last for more than three (3) consecutive days nor more than three (3) times a year do not require a zoning permit. Such sales that do not meet this requirement shall comply with Section 5.7. Signs for garage/lawn/porch sales shall be considered temporary signs regulated according to Section 4.12(B)(3).
- C) State Exemptions.** Except for those uses located in the Flood Hazard Overlay District, the following uses and structures are specifically exempted from municipal land use and development regulations by state law; no municipal zoning permit or approval under these regulations shall be required.
- 1) Accepted agricultural practices (AAPs) as adopted in rules by the Agency of Agriculture (see [www.vermontagriculture.com/ARMES/awq/AAPs.htm](http://www.vermontagriculture.com/ARMES/awq/AAPs.htm)), including farm structures, as defined in Vermont Statute (Title 6 §4810). However, written notification, including a sketch plan of the farm structure showing setback distances from road rights-of-way, property lines, and surface waters shall be made to the Zoning Administrator prior to any construction as required under the AAPs. Agricultural practices that are governed by the AAP rules include, but are not limited to the following:
    - a) The confinement, feeding, fencing, and watering of livestock.
    - b) The handling of livestock wastes and by-products.
    - c) The collection of maple sap and production of maple syrup.
    - d) The preparation, tilling, fertilization, planting, protection, irrigation and harvesting of crops.
    - e) The ditching and subsurface drainage of farm fields and the construction of farm ponds.
    - f) The stabilization of farm field streambanks constructed in accordance with the United States Department of Agriculture Natural Resources Conservation Service standards and specifications or other standards approved by the Commissioner.
  - 2) Accepted management practices (AMPs) for silviculture (forestry) as defined by the Act.
  - 3) Public utility power generating plants and transmission facilities that are regulated by the Vermont Public Service Board [under 30 V.S.A. §248], including net-metered wind generation facilities and solar panels.
  - 4) Hunting, fishing or trapping on public or private land as specified by the state [under 24 V.S.A. §2295]. This excludes facilities that may support such activities, such as firing ranges, rod and gun clubs, and fish and game clubs, which are subject to these regulations.

**D) Zoning Permit and Board Approval Applications.** An application for a zoning permit shall be complete and be submitted to the Zoning Administrator along with the permit fee (according to the fee schedule set by the Village Trustees) and a written request for any waiver of required application materials. A complete application for a zoning permit or board approval must be on an application form provided by the Village of Enosburg Falls and contain all applicable application requirements listed in Table 3.1.

1) **Application Forms.**

- a) Village of Enosburg Falls Zoning Bylaws Application Form: Application required for all land development except for signs. For uses that require one or more board approvals, the applicant must first apply and receive such approval on the appropriate application form.
- b) Village of Enosburg Falls Application for sign permit: Application required for a sign permit.
- c) Village of Enosburg Falls Appeal/Application to Development Review Board: Application required for conditional use approval, variance approval, and appeals of the zoning administrator's decision.
- d) Village of Enosburg Falls Application for Site Plan Approval: Application required for site plan approval.

**E) Waivers of Application Requirements.** Applications shall not be considered complete by the Zoning Administrator until all application materials have been submitted. The Zoning Administrator, in consultation with the Development Review Board, may waive one or more of the listed items in the event they determine the items to be unnecessary for the comprehensive review of the application. Such waiver shall be issued in writing when the application is accepted and deemed complete by the Zoning Administrator.

**F) Notification and Review Procedure.** Zoning permit applications, including for conditional use, site plan, variance review, and flood hazard area development review are subject to notification and review procedures in Article 9.

**TABLE 3.1 ZONING PERMIT AND APPROVAL APPLICATION REQUIREMENTS:**

**Application Requirements:**

Application for a zoning permit or board approval shall be made on a form provided by the Village of Enosburg Falls and shall include the information and materials listed in this table as applicable. Specific uses may be subject to additional application requirements as specified in Article 5. Development in the Flood Hazard Overlay District is subject to the application requirements in this table, as applicable, and those outlined in Section 3.6.

**A) Requirements for all land development applications:**

- \* Name and mailing address of the property owner(s) as listed on the title/deed and the applicant (if not owner) and the applicants interest in the property (lessee, option holder, owner’s agent). Attach a copy of the lease/option, etc. if applicable.
- \* The 911 address, parcel ID number, and the book and page number of the title/deed for the property under application, and the date the property was acquired.
- \* A list of names and most recent mailing addresses of all abutting property owners.
- \* The zoning district within which the property lies.
- \* The size of the lot in square feet or acres; the length of the feet of frontage on a town or state highway; and the length in feet of all other property lines (on the sides and in the back).
- \* A description of the existing buildings and structures on the property and what they are used for and how long that use has continued.
- \* A description of the proposed changes to the property and what they will be used for.
- \* Information regarding any potential for odor, noise, smoke, dust, dirt, noxious gas, glare, fire, or explosion during the construction of the development or the proposed use of the land.
- \* One (1) original and one (1) complete copy of a site plan, drawn to scale, with north arrow and date of preparation. *(If required by the Development Review Board, site plans shall be prepared by a licensed engineer, surveyor, or architect, the name of which shall be noted on the map along with map scale, north arrow, and date of preparation)*

**TABLE 3.1 ZONING PERMIT AND APPROVAL APPLICATION REQUIREMENTS:**

**B) Each site plan shall show the following information in sufficient detail to determine whether the proposal is in conformance with these Regulations:**

- Dimensions of the lot and lot acreage, including legal property boundaries.
- Zoning district boundaries.
- Location, footprint, and height of existing and proposed structures, additions, and land use areas, and the distance between each.
- Location and dimensions of existing and proposed easements, deed restricted areas, rights-of-way, sidewalks, parking areas, and utilities.
- Location of major site features, including surface waters, wetlands, floodplains, rock outcroppings, and stands of trees.
- Stormwater management systems (i.e. ponds, outfalls, culverts, swales, low-impact development features) and/or connections to existing municipal stormwater infrastructure; municipal sewer connections or onsite wastewater management systems; and municipal water supply connection or onsite water supply system, as applicable.
- Setback distances in feet from property boundaries, rights-of-way, surface waters, and wetlands.
- Where locations of, and relationship between property lines, roads, buildings, and other required information is in doubt, a land survey may be required.
- Any other information that may be needed to determine compliance with these regulations.

**C) Additional site plan requirements for land development requiring conditional use and/or site plan review:**

- The location and type of all vegetation and natural features on the site.
- Location and dimension of parking areas, loading and unloading facilities, points of ingress and egress of vehicles to and from the site to public streets, and pedestrian rights of way.
- Location, height, and lumens of outdoor lighting.
- Topography indicating contours at intervals of not more than 50 feet.
- Soil data relating to its suitability for construction, infiltration, and septic suitability.
- Existing and proposed landscaping and screening.
- The location of all proposed site grading and excavation.

**TABLE 3.1 ZONING PERMIT AND APPROVAL APPLICATION REQUIREMENTS:**

<b>D) In addition, each zoning application shall include the following, as applicable:</b>	<b>Site Plan Review</b>	<b>Conditional Use Review</b>	<b>Variance Requests</b>
Construction sequence and time schedule for completion of each phase of development.	✓	✓	
Estimated daily and peak traffic generation.	✓	✓	
Plans for onsite erosion control during construction.	✓		
Detailed specifications of planting and landscaping materials to be used, and a plan for long term maintenance and replacement of plantings.	✓		
Cost estimates of all site improvements.	✓		
In Central Business District Only – A scale elevation of the existing structure and proposed changes, or a scale elevation of the new structure including details of surface materials, color, and window design.	✓		
Statement of how the proposed development fits the purposes of the land use district in which it is located.		✓	
Expected impact on existing and planned community facilities		✓	
For nonconforming uses or structures - statement of how the proposal meets standards in Section 4.8.		✓	
A statement describing the variance requested from one or more provisions of these Regulations and the alleged grounds why such relief is believed proper under the circumstances based on the five (5) statutory criteria listed in Section 3.4 and Section 4449 of the Act.			✓
Any other information which the Development Review Board requires to ensure that the provisions of these regulations are met.	✓	✓	✓

**SECTION 3.2 CONDITIONAL USE REVIEW**

**A) Applicability:** No zoning permit may be issued by the Zoning Administrator for uses requiring conditional use approval as listed in Table 2.1 and land development associated

with nonconformities according to Section 4.8 until that approval has been granted by the Development Review Board.

- B) Purpose:** Conditional use review requires compliance with standards addressing the impact of proposed land uses on adjacent properties, the neighborhood or district in which the project is located, and the community at large. Standards and conditions emphasize considerations to identify, avoid, and/or mitigate off-site impacts of a proposed project.
- C) General Standards:** When determining the appropriateness of a proposed conditional use, the Development Review Board shall determine that the development or use will not adversely affect any of the following general conditional use criteria:
- 1) **The capacity of existing or planned community facilities.** The Board shall consider the demand for community services and facilities that will result from the proposed development and determine whether that demand will exceed the capacity of existing facilities or services (such as school capacity, emergency services, recreation fields, etc.). Conditions may be imposed regarding the timing and phasing of development to minimize the impact on community facilities and services, including requiring the applicant to contribute funds and/or physical improvements toward the provision of new or expanded facilities to mitigate the impacts of the proposed development. In making such a determination and imposing any subsequent conditions, the Board will consider any capital program or budget in effect at the time of application.
  - 2) **The character of the area affected.** A conditional use may not, by its nature, scale, or conduct, have an undue adverse affect on the character of the area as it exists or would exist if fully developed in accordance with the Enosburg Falls Village Plan. ‘Character of the area’ refers to the distinctive traits, qualities, attributes, appearances, pattern of use, sense of community and factors, which define its identity. When considering the impact of a proposed conditional use on the character of the area affected, the Board shall consider the proposal’s compatibility with the purpose and character of the affected zoning district as defined in Section 2.3 of these bylaws, the Village Plan, and the testimony of the interested parties.
  - 3) **Traffic on roads and highways in the vicinity.** The Board shall consider the projected impact of traffic resulting from the proposed development on the capacity, safety, efficiency, and use of affected public roads, bridges, and inter-sections (for example - a reduction in existing level of service below “C”). Level of service is the classification of general traffic conditions. The level of service ranges from “A” (the best), to “F.” It is a measure of how a highway or an intersection performs in terms of speed, travel time, freedom to maneuver, traffic interruptions, and delays. When the capacity of a road to accept increased traffic is limited, the conditional use shall not exhaust or exceed the remaining capacity of the road.
  - 4) **Utilization of renewable energy resources.** A conditional use shall not excessively inhibit or restrict access to or the use of resources including sun, wind, and water for energy generation.
- D) Specific Standards:** In addition to the general standards above, the following must be applied by district in order to further the purposes of the Village Land Use Plan.
- 1) Specific Standards for the Commercial District.

- a) Applicants will be required to demonstrate how their proposal complements existing business development in the community.
  - b) New roads shall be designed and constructed to provide for smooth and easy pedestrian and vehicle access from the central business district.
  - c) The proposed use shall be designed to provide efficient connection to municipal services and facilities.
  - d) The board may require that the proposal be submitted as a Planned Unit Development in order to ensure the most effective use of the site.
  - e) If the proposal is only a partial use of the development site, a master plan may be required in order to ensure coordinated future development.
- 2) Specific Standards for the Industrial District.
- a) Master planning will be required prior to any development to promote efficient and economic connection with existing services and facilities and prevent sprawl. The Development Review Board will work with the landowner to secure technical assistance for completing a master plan.

Master Plans shall include enough detail to illustrate or prove:

- Current and future subdivision and development plans anticipated for the site;
- the general location of any sensitive natural areas on the site along with plans for their conservation;
- efficient and safe access to village streets or state highways;
- efficient and safe traffic circulation within the site; and
- consideration of existing physical features of the site.

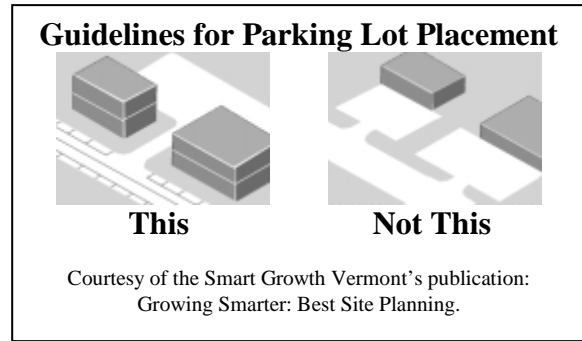
- E) Conditions.** The Development Review Board shall have the power to impose reasonable conditions and safeguards as it deems appropriate and necessary when approving conditional use applications including:
- 1) Limiting lot coverage or height of buildings because of undue obstruction to view and reduction of light and air to adjacent property;
  - 2) Controlling the location and number of vehicular access points to development to minimize traffic hazards;
  - 3) Requiring measures to minimize the adverse effects of land alterations on soil erosion, water quality, and scenic beauty as may be recommended by the county forester, Soil Conservation Service, district highway engineer, and other experts;
  - 4) Requiring suitable landscaping where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area;
  - 5) Specifying a time limit for construction of improvements to land or structures, including conditions to phase residential developments to minimize the impact on schools and other community facilities and services;
  - 6) Requiring a Performance and Payment Bond from the applicant to ensure that the project is constructed and maintained in compliance with the permit and these regulations;
  - 7) Construction of a new road, water supply, or wastewater disposal system for common use by 3 or more dwelling units, and;
  - 8) Any additional conditions and safeguards which the Development Review Board deems necessary to implement the purposes of the Act, the municipal plan, or these zoning regulations.





**1) Building Siting.**

- a) Buildings shall be located and designed so as to encourage interconnected activity between neighboring buildings. Access by pedestrians will be emphasized.
- b) New parking areas shall be located behind or alongside buildings. New parking areas shall not be located in the area between the road and any façade of the building.
- c) Buildings should be located as close to the road as allowed by this bylaw and is practical given site topography considerations.



**2) Building Facades.**

- a) The portion of any building visible from the road shall be given special detailing and architectural consideration. This includes:
  - i) Adequate number and arrangement of openings and windows, avoiding either a cluttered appearance or a blank façade.
  - ii) Clearly defined entry doors with added detail.
  - iii) The use of native and natural materials (wood, stone, brick) or other materials with a similar appearance (metal siding, T-111, stucco or other glaring or reflective materials shall not be used on any portion of the building visible to the street).
  - iv) Inclusion of design features such as cornices, trims, columns, or accent bands to prevent large areas of unbroken color.
  - v) Screening of rooftop mechanical equipment, telecommunications infrastructure and similar devices.
- b) Every reasonable effort shall be made to preserve the distinguishing original qualities of a building, structure, or site and environment. The removal or alteration of any historic material or architectural features should be avoided where possible.
- c) Contemporary design for new structures or sites, alterations or additions to existing properties shall not be discouraged when such new development, alterations and additions are compatible with the design character of the surrounding environment and any original structure(s).
- d) Architectural designs for new structures shall relate to and incorporate elements of the scale, materials, motifs, colors and design of significant buildings of architectural merit in adjacent districts. Generic designs shall be avoided or modified to relate to local architectural styles.

- 3) Height.** Building height should be proportional to the average height of existing buildings on either side and along the streetscape, but in no case shall any building be less than two stories.

**SECTION 3.4 VARIANCE REVIEW**

- A)** An applicant may apply to the Development Review Board for a variance from the provisions of these regulations for structures. The purpose of a variance is to address a

hardship related to the physical characteristics of a particular lot, which hampers the owner from enjoying the same property rights accorded to others in the same zoning district.

- B)** The Development Review Board may render a decision in favor of the applicant only upon establishing all the following facts in its decision:
- 1) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located;
  - 2) 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;
  - 3) That the unnecessary hardship has not been created by the applicant;
  - 4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and
  - 5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the town plan.
- C)** In rendering a decision in favor of the applicant for a variance, the Development Review Board may attach such conditions which it may deem necessary to implement the Act and/or the Village Plan. In no case shall the Development Review Board grant a variance for a use that is not permitted or conditionally permitted in the applicable district.
- D)** Variances for structures located in the Flood Hazard Overlay District shall only be granted in accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations.

### **SECTION 3.5 WAIVERS**

The Development Review Board may waive setback requirements in any district for single story attached garages, decks, porches, and/or accessory structures up to fifty percent (50%) in cases where conditions exist which affect the ability to otherwise meet setback requirements. No waiver shall be granted which would have an undue adverse effect on adjacent property, the character of the area or on public health and safety.

- A.** In the issuance of waivers the Development Review Board:
1. shall consider and may require design features, screening, or some other remedy in order to mitigate anticipated impacts of any such waiver. The design feature should have a minimum height of five (5) feet above grade level and shall provide

adequate privacy to the surrounding use(s). Options include a wall, a solid fence, a densely planted hedge or natural and/or man-made landforms.

2. may require that all outdoor storage of materials and equipment, including waste storage facilities, shall not be stored or located within the reduced setback area.
  3. shall provide only the minimum waiver that will represent the least deviation possible from the bylaw.
- C. Applications for waivers shall be considered by the Development Review Board after a public hearing held in accordance with Section 9.1 D.

### **SECTION 3.6 FLOOD HAZARD AREA DEVELOPMENT REVIEW**

**A) Applicability.** This section shall apply to all development in the Flood Hazard Overlay District that has been identified as eligible for Flood Hazard Area Development Review in Section 2.3(I). The Flood Hazard Overlay District consists of all areas of special flood hazard in the Village of Enosburg Falls identified on the most current flood insurance studies and maps, published by the Department of Homeland Security (DHS), Federal Emergency Management (FEMA), and National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Section 753. The Flood Hazard Overlay District standards in this section do not imply that land outside of the areas of special flood hazard or land use permitted within Flood Hazard Overlay District will be free from flooding or flood damages. These standards shall not create liability on the part of the Village of Enosburg Falls or any town official or employee thereof for any flood damages that result from reliance on the standards of this section or any administrative decision lawfully made thereunder.

The Zoning Administrator shall not issue a zoning permit for development in the Flood Hazard Overlay District until that approval has been granted by the Development Review Board. For the purposes of this Section, development is defined as any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**B) Base Flood Elevations and Floodway Limits.** Where available (i.e. zones A1-A30, AE, & AH), the base flood elevations and floodway limits provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer the provisions of these regulations.

- 1) In areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program (i.e. Zone A), base flood elevation and floodway information available from state or federal agencies or other sources shall be obtained and used to administer the provisions of these regulations.
- 2) Until a regulatory floodway has been designated, no new construction, substantial improvements, or other development shall be permitted in Zones A1-30, AE, and AH unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development will not

increase the water surface elevation of the base flood more than one foot at any point within the community.

**C) Development Standards.** The Development Review Board may impose specific conditions or require project modifications for development within the Flood Hazard Overlay (FHO) District in accordance with the standards listed below. All permits and decisions issued for development in the Flood Hazard Area Overlay District shall include a condition that all other State and Federal permits are obtained.

- 1) **Floodway Areas.** The Floodway area within the Flood Hazard Area Overlay District is defined as 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.
  - a) Development within the floodway is prohibited unless a registered professional engineer certifies that the proposed development will not result in any increase in flood levels during the occurrence of the base flood.
  - b) Junkyards and storage areas or facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials are prohibited within the floodway.
- 2) **Special Flood Hazard Areas.** Special Flood Hazard Areas are defined as the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated a Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the Flood Insurance Rate Map (FIRM), Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/AI-30, AR/AE, AR/AO, AR/AH, AR/A, VO or V1-30, VE, or V. For purposes of these regulations, the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard”. Special Flood Hazard Areas within mapped floodway areas are subject to the following standards in addition to the Floodway Standards in Subsection (i) above.
  - a) All Development - All development shall be reasonably safe from flooding and:
    - i) designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood;
    - ii) constructed with materials resistant to flood damage;
    - iii) constructed by methods and practices that minimize flood damage; and
    - iv) 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.
  - b) Residential Development:
    - i) New construction and existing buildings to be substantially improved that are located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation.
    - ii) Manufactured homes to be placed and existing manufactured homes to be substantially improved that are:
      - located in a new manufactured home park or subdivision, outside of a manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in a manufactured home park or

- subdivision which has incurred substantial damage from a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to no less than one foot above the base flood elevations and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement during the occurrence of the base flood.
- located in an existing manufactured home park, where elevating a replacement home to or above base flood elevation is not possible, the lowest floor shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 48 inches in height above grade and be securely anchored to an adequately anchored system to resist floatation, collapse, and lateral movement.
- c) Non-residential Development:
- i) New construction located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation.
  - ii) Existing buildings to be substantially improved located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation or together with attendant utility and sanitary facilities be designed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. (Note: while buildings need only be floodproofed to the base flood elevation for floodplain management purposes, the building must be floodproofed to an elevation at least one foot above the base flood elevation to receive credit for base flood protection for flood insurance rating purposes.
  - iii) A permit for a building proposed to be floodproofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.
- d) Subdivisions:
- i) Subdivisions (including manufactured home parks) shall be designed to assure:
    - such proposals minimize flood damage within the flood-prone area,
    - public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
    - adequate drainage is provided to reduce exposure to flood hazards.
- e) Enclosed Areas Below the Lowest Floor:
- i) Enclosed areas below the lowest floor which are subject to flooding shall be used solely for parking of vehicles, building access, or storage.
  - ii) New construction and existing buildings to be substantially improved with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
  - iii) Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one

square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

- f) **Recreational Vehicles:** Recreational Vehicles placed on sites with special flood hazard areas shall either:
  - i) be on the site for fewer than 180 consecutive days,
  - ii) be fully licensed and ready for highway use, or
  - iii) be permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in section B.2.(b).
- g) **Accessory Structures:** A small accessory building that represents a minimal investment need not be elevated to the base flood elevation provided the structure meets the following requirements:
  - i) The structure must only be used for parking or storage,
  - ii) The structure must have the required openings to allow floodwaters in and out,
  - iii) The structure must be constructed using flood resistant materials below the Base Flood Elevation,
  - iv) The structure must be adequately anchored to resist flotation, collapse, and lateral movement, and
  - v) All building utility equipment including electrical and heating must be elevated or floodproofed.
- h) **Water Supply Systems:** New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- i) **Sanitary Sewage Systems:** New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- j) **On-Site Waste Disposal Systems:** On-site wastewater disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- k) **Watercourse Carrying Capacity:** The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.

**D) Standards for Review of Nonconforming Structures.** The Development Review Board, after public hearing, may approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a regulated flood or other hazard area, subject to compliance with applicable federal and state laws and regulations, and provided that the following criteria are met:

- 1) The repair, relocation, or enlargement of the nonconforming structure is required for the continued economically feasible operation of a nonresidential enterprise.
- 2) The repair, relocation, or enlargement of the nonconforming structure will not increase flood levels in the regulatory floodway, increase the risk of other hazard in the area, or threaten the health, safety, and welfare of the public or other property owners.
- 3) The permit so granted states that the repaired, relocated, or enlarged nonconforming structure is located in a regulated flood or other hazard area, does not conform to the bylaws pertaining to that area, and will be maintained at the risk of the owner.

## **ARTICLE 4. GENERAL REGULATIONS**

### **SECTION 4.1 ABANDONMENT OF STRUCTURES, DEMOLITION, AND DESTROYED STRUCTURES**

- A) Abandonment of Structures.** Any structure shall be deemed abandoned when it has not been used for at least one year. Abandoned structures must be either maintained or demolished. There is no time limit on how long a structure may remain abandoned provided it is maintained. A maintained structure is habitable and has intact exterior walls, intact windows, and an intact roof.
- B) Demolition** of structures is the intentional removal or dismantling of a structure either for the purpose of replacement or returning to grade. Prior to any demolition, a zoning permit must be obtained from the Zoning Administrator.
- 1) Within one (1) year after any structure has been demolished, all structural materials and debris shall be removed from the site, and any remaining excavation shall be covered over or filled to the natural grade and seeded by the owner to prevent erosion. Upon application by the property owner, the Zoning Administrator may extend the time to undertake such remedial work.
  - 2) A zoning permit must be obtained before any reconstruction following demolition, unless exempted from these regulations in Section 3.1. Any reconstruction of a non-conforming structure shall be reviewed under Section 4.8(C).
- C) Destroyed Structures.** Destroyed structures are those that have been lost through accident or act of nature (fires, floods, etc) and are treated differently than structures which have been demolished or abandoned (intentional losses of structures).
- 1) Reconstruction of destroyed structures requires a zoning permit. Provided the application for reconstruction of a destroyed structure is submitted within one (1) year from the date of loss and meets all requirements of these regulations, including setbacks, the Zoning Administrator shall approve the application. However, if the application for reconstruction includes new uses and or structural changes that are subject to additional requirements or approvals under these regulations, a full application and all applicable approvals will be required.
  - 2) If reconstruction of a destroyed structure has not commenced after one (1) year, all structural materials and debris shall be removed from the site and any remaining excavation shall be covered over or filled to the natural grade and seeded by the owner to prevent erosion. Upon application by the property owner, the Zoning Administrator may extend the time to undertake such remedial work.
  - 3) Any reconstruction of a destroyed nonconforming structure shall be reviewed according to Section 4.8 (C)(2).

### **SECTION 4.2 ACCESS REQUIREMENTS AND DRIVEWAYS**

- A) Access to Lots without Required Frontage.** Land development may be permitted on lots that do not have the required frontage, as defined in Article 10, only with the approval of the Development Review Board under site plan approval (Section 3.3), or subdivision review where the subdivision of land is proposed (Article 6). The Development Review Board shall



approve access to lots without required frontage as long as such access from a public or private road is provided by a permanent easement or right-of-way at least 20 feet wide. The Board may consider the intended use of the property, safety, traffic, and road and site conditions in granting, conditioning or denying approval and may require a right of way in excess of 20 feet to ensure safe and orderly development.

1) **Exceptions.** All commercial and industrial uses shall have direct access to a maintained public or private road and shall have a minimum sight distance as required by Vermont Agency of Transportation Standard B-71.

**B) Curb Cuts.** Any activity for which a zoning permit is required, and which involves the construction or modification of a driveway intersecting with a public right-of-way shall obtain an access permit from the Village Trustees to access Village roads and streets, and the Vermont Agency of Transportation for access on state highways, prior to the issuance of a zoning permit.

**C) Driveways.** Driveways (access drives or easements serving not more than two (2) single family units) shall meet the standards listed below. Roads, access drives, or easements serving more than two (2) single family units shall meet the requirements of Section 8.4 Streets and Roads.

1) An easement, right-of-way, or driveway shall not, in any 50-foot section, exceed an average grade of 10 percent (a maximum rise of 5 feet over a 50 foot stretch).

2) All driveways entering onto a public road must meet the Standards for Residential and Commercial Drives, Vermont agency of Transportation, Standard B-71.

#### **SECTION 4.3 DEVELOPMENT ON STEEP SLOPES**

**A)** All development involving the excavation, filling and/or regrading of land characterized by a slope of 15% or greater shall be subject to review and approval by the Development Review Board under site plan approval (Section 3.3) in accordance with Section 8.3 of the Planning and Design Standards.

**B)** Development shall not take place on slope gradients of 25% or greater, except for limited site improvements necessary to facilitate development on contiguous land with a slope of less than 25% gradient may be permitted by the Development Review Board, subject to the requirements of Subsection (A).

#### **SECTION 4.4 EQUAL TREATMENT OF HOUSING**

**A)** No zoning regulation shall have the effect of excluding mobile homes, modular housing, manufactured housing or other forms of prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded.

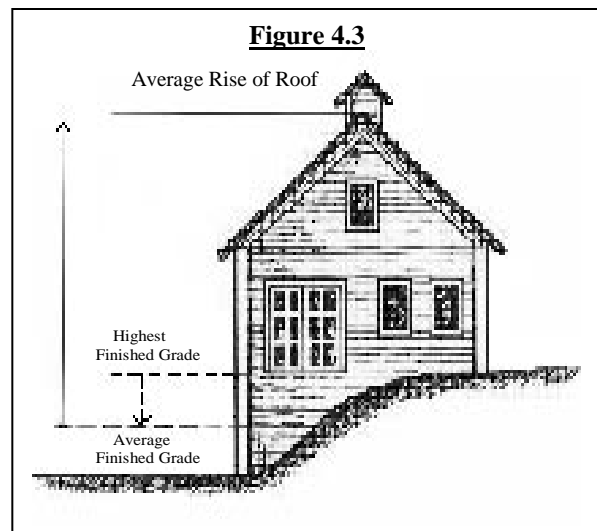
**B)** Mobile and modular homes shall be treated the same as conventional homes except in a mobile home park (See Section 5.11). A non-porous pad of at least 4 inches thick shall be provided for each mobile home.

## SECTION 4.5 HAZARDOUS MATERIALS

- A) Applicability.** Any proposed construction, use, or change in use that by its design or nature is intended for the manufacture, processing, reprocessing, packaging, or storage of hazardous materials shall be a conditional use permitted only upon review by the Development Review Board. Applications will be reviewed according to this section whenever the Zoning Administrator or the Development Review Board determines that hazardous materials as defined in Article 10 are involved.
- B) Supplemental Information.** In addition to conditional use application requirements, the applicant shall provide the following information unless a waiver is granted through written request to the Development Review Board:
- 1) Map showing contours at 20 foot intervals;
  - 2) Identification of all hazardous materials to be generated or accepted by the facility;
  - 3) Complete description of plant operations, including all treatment processes and technologies to be applied;
  - 4) Description of procedures to be used in case of a spill or emergency at the facility; and
  - 5) Any other information deemed necessary by the Development Review Board including expert testimony and documentation by independent sources at the applicants' expense.
- C) Decisions.** Upon hearing the application the Development Review Board may:
- 1) Determine an excessive hazard potential to exist and deny the application;
  - 2) Limit the scope of activity with regard to the size of structures, quantities and types of materials, place of storage of materials, handling of materials, routes of travel, hours of operation; and/or
  - 3) Require special safeguards, warning systems, fire control systems, and other safety regulations be implemented; and/or
  - 4) Provide for continuous monitoring, reporting, and regulation by the Zoning Administrator and plant manager.

## SECTION 4.6 HEIGHT LIMITS

- A)** Except in the Commercial and Central Business District (See Section 3.3(E)), no structure shall exceed 35 feet in height above the average finished grade (ground level) as depicted in Figure 4.3.
- B)** Height will be measured as the vertical distance measured from the average elevation of the proposed finished grade to the highest point of the roof for flat and mansard roofs, and to the average rise of the roof between eaves and ridge for other types of roofs (See Figure 4.3).



- C) Ornamental and symbolic features of buildings and structures including spires, architectural towers, cupolas, belfries and domes are exempt from the height regulations provided they are not used for human occupancy or commercial advertisement and do not take up more than 10% of the total roof area.
- D) The Development Review Board, through conditional use review procedure, may permit a structure to exceed the applicable building height maximum provided that the structure does not constitute a hazard, and provided that the portion above 35 feet shall remain unoccupied except for normal maintenance.
- E) The Development Review Board may, upon request or appeal, establish a maximum height limit less than 35 feet for any area of land or any structure associated with any use if such modification of the height limit will make it possible to preserve the use of a solar heating system.

#### **SECTION 4.7 LOT AND SETBACK REQUIREMENTS**

- A) Only a single principal use or structure may be located on a single lot, unless otherwise approved by the Planning Commission as part of a PUD under Article 6 or by the Development Review Board as part of a mixed use under Section 5.10.
- B) **Setback requirements:** All primary and accessory structures shall conform with the minimum setback requirements of the district in which they are located as required in Table 2.2, unless expressly permitted as a variance to these bylaws. The setback is a horizontal line measured from the edge of a road, lot line, boundary or other feature (e.g. stream, shoreline, or wetland), to the nearest part of a building, structure, or parking area on the premises.
  - 1) The following uses may be permitted in the setback area: fences, signs (except in side and rear, see Section 4.12), utilities, driveways and right of ways, pedestrian walkways, and paths.
  - 2) Any interior (non-frontage) lot which does not have frontage on a public or private road or public waters shall meet minimum setbacks from all property lines equal to the front setback distance for the district in which it is located.

#### **SECTION 4.8 NONCONFORMITIES (INCLUDING EXISTING SMALL LOTS)**

- A) **Applicability.** Any lawful structure or any lawful use of any structure or land existing at the time of the enactment of these regulations may be continued, although such structure or use does not conform with the provisions of these regulations, provided the conditions in this section are met.
- B) **Nonconforming Uses.** A pre-existing use that does not conform with the uses allowed in the district in which it is located shall be deemed a nonconforming use. Any non-conforming use may be continued indefinitely, but shall be subject to the following provisions:
  - 1) A non-conforming use shall not be changed to another non-conforming use, expanded, moved, or enlarged. Examples of enlarged or expanded uses can include increased hours

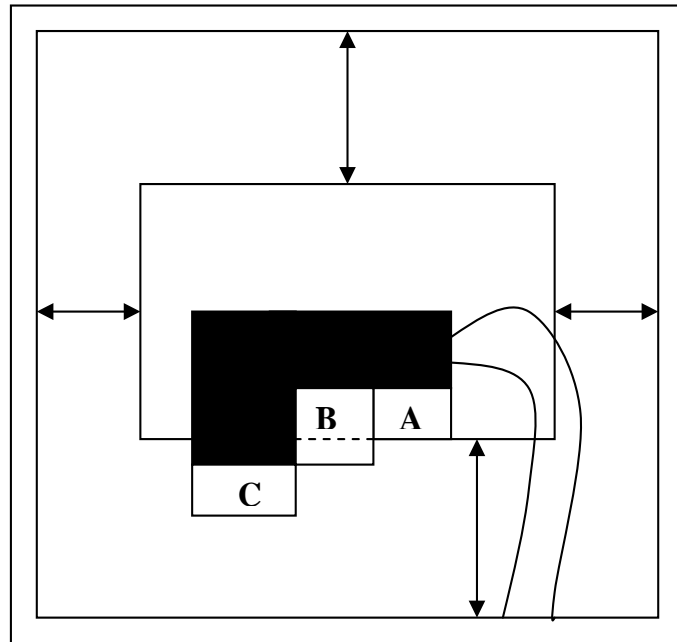
of operation, increased numbers of tables, or an increase in the size of the operation through the expansion of a conforming structure.

- 2) A non-conforming use shall not be re-established if the use has been abandoned for a period of at least one-year or has been changed to, or replaced by, a conforming use. Intent to resume a non-conforming use shall not give the right to do so.

**C) Nonconforming Structures.** Any structure or part thereof, which is not in compliance with the provisions of these regulations concerning setback, height, size, or other structural requirements (including such things as signs, parking, and lighting), shall be deemed a non-conforming structure. Nonconforming structures located in the Flood Hazard Area Overlay District are subject to the requirements of Section 3.6 in addition to the provisions listed below. Any non-conforming structure may be continued indefinitely, but shall be subject to the following provisions:

- 1) The Zoning Administrator may permit the reconstruction or replacement, addition to or expansion, renovation or repair, in whole or in part, of a nonconforming structure only in full conformance with these regulations (i.e. the nonconforming structure is made conforming).
- 2) Under conditional use review, the Development Review Board may approve the reconstruction or replacement, addition to or expansion, renovation or repair, in whole or in part, of a nonconforming structure if it does not increase the degree of nonconformance, as shown in Figure 4.4, **and** does not exceed, in aggregate cost, 35 percent of the current assessed value for residential properties and 25 percent for industrial and commercial properties, as determined by the Village Listers.
- 3) If a nonconforming structure is destroyed as defined in Section 4.1(C), it may be replaced, repaired, or reconstructed in conformance with these regulations or in the same footprint as the destroyed nonconforming structure after issuance of a zoning permit by the Zoning Administrator. Any other reconstruction or replacement, addition to or expansion, renovation or repair of a destroyed nonconforming structure shall meet the requirements of (1) and (2) above.

**Figure 4.4**



*In this example of a nonconforming structure, a portion of the building exceeds the front setback for the district in which it is located. Extending the building in a manner that encroaches further into the setback area as depicted in the addition labeled “C”, would increase the degree of nonconformance. However, extending the building into the setback area, but not further than already exists, as depicted in the addition labeled “B”, or extending the building without encroaching into the setback area would not increase the degree of nonconformance.*

**D) Pre-Existing Small Lots.** Any lot in individual, separate, and non-affiliated ownership from surrounding properties in existence on the effective date of these regulations may be developed for the purposes permitted in the district in which it is located, even though it does not conform to minimum lot size requirements, provided such lot is not less than one-eighth acre in area with a minimum width or depth dimension of 40 feet and has adequate access complying with Section 4.2.

- 1) If such lot subsequently comes under common ownership with one or more contiguous lots, the lot shall be deemed merged with the contiguous lot for purposes of these and other applicable bylaws and ordinances. However, such lot shall not be deemed merged and may be subsequently conveyed if:
  - a) The lots are conveyed in their preexisting, nonconforming configuration; and
  - b) On the effective date of these zoning regulations, each lot had been developed with a water supply and wastewater disposal system; and
  - c) At the time of transfer, each water supply and wastewater system has a wastewater and potable water supply permit from the Department of Environmental Conservation.

#### **SECTION 4.9 JUNKYARDS, JUNK, AND OPEN STORAGE OF VEHICLES**

**A) Junkyards.** Junkyards, as defined in V.S.A Title 24 Section §2241 and in Article 10, are prohibited in all zoning districts.

**B) Junk and Open Storage of Vehicles.** Vehicles that are BOTH non-operative and non-inspected and junk taking up less than 200 square feet of area shall not be allowed in any setbacks, and shall be effectively screened from view of a public highway and adjacent properties during all seasons of the year. Farm vehicles are exempt from this provision. Junk, for the purposes of this regulation, is defined as any scrap, waste, reclaimable material, or debris, whether or not stored, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed, or other use or disposition.

#### **SECTION 4.10 PARKING AND LOADING AREAS**

**A) Purpose.** Off street parking is required as provided below to alleviate traffic congestion and promote traffic safety.

**B) General Parking Requirements.** Off street parking is required for all new structures and uses and any change, addition, or enlargement to an existing structure in all zoning districts in accordance with the following requirements and the standards of this section.

- 1) In recognition of the Central Business District's downtown nature where on street and multi-use parking are provided, when not feasible due to small lot sizes and high density development, off street parking space requirements as provided in this section do not apply for the following uses: professional and business services, retail establishments, financial institutions, and sit-down restaurants. However, new construction in the Central Business District may relocate, but not eliminate existing off-street parking spaces.

- 2) Multi-family residential (more than 4 units), commercial, industrial, and institutional uses shall provide parking for the elderly and disabled in accordance with the standards of the Americans with Disabilities Act.
- 3) The following table sets specific off-street parking requirements for various uses:

<b>Table 4.1 Off Street Parking Requirements</b>	
<b>Note: Some Uses are Exempt for Parking Space Requirements in the Central Business District</b>	
<b>USE</b>	<b>REQUIRED OFF STREET PARKING SPACES</b>
Residential	2 per dwelling unit plus 1 guest space for each 6 dwelling units
Lodging	1 per lodging unit plus 1 per each 2 employees
Hospitals/Residential Health Care Facilities	1 per 4 beds plus 1 per each 4 employees
Clubs	1 per 5 members
Churches, Schools, Public Assembly	1 per 6 seats or per 200 sq. ft. floor space, whichever is greater
Professional & Business Services	1 per 250 sq. ft. gross floor area
Retail Establishments	1 per 200 sq. ft. gross floor area
Automobile/Marine Sales & Service	1 per each 500 sq. ft. gross floor area
Financial Institutions	1 per each 200 sq. ft. gross floor area Each drive-up lane shall have stacking room for 6 cars, & a by-pass lane shall be provided.
Restaurants, sit-down	1 per 3 seats plus 2 per 3 employee
Restaurants, drive-in	1 per 50 sq. ft. gross floor area
Storage/Distribution Facilities/Truck Terminals/Lumber Yards	1 per 250 sq. ft. area devoted to office use plus 2 per each 3 non-office employees and 1 per company vehicle operating from the premises
Industry	2 per 3 employees on largest shift
Unspecified Uses	As required by the Development Review Board

**C) Parking Design Standards.** Off street parking shall meet the following design standards.

- 1) Parking spaces shall be designed to provide sufficient width, length and access to accommodate the planned angle of parking. A parking space, at a minimum, shall be 9 feet in width and 20 feet in length.
- 2) Each off street parking space shall be provided access to a public street through a drive or aisle of not less than the dimensions provided below:
  - a) Parking along a curb (0° angle) and up to 60° angle parking – a drive or aisle not less than 12 feet in width for one way traffic and 20 feet in width for two way.
  - b) 90° angle parking – a drive or aisle not less than 24 feet in width for one or two way traffic.
- 3) For residential uses, parking areas shall not be located in setback areas, except in the front setback when located on a driveway with a permitted curb cut.

- 4) All parking in excess of 5 spaces shall include a perimeter landscaped strip at least 5 feet wide between and adjacent to a line defining the exterior boundary of the parking area and adjoining property lines. Where the landscaped strip adjoins a public street or pedestrian walkway, or abuts any non-residential use with a residential use, the landscaped strip shall be a minimum of 10 feet in depth and shall include a hedge, fence, wall, or other equivalent screening feature. In the Central Business District, the Development Review Board may modify this requirement based on site limitations.
- 5) All off-street parking areas in excess of 10 parking spaces shall provide landscaped areas equal to at least 10 percent of the total parking area. Landscaped areas shall be regularly maintained, and must be integrated into the parking lot design rather than relegated to one concentrated location or to the edges of the parking lot. In the Central Business District, the Development Review Board may modify this requirement based on site limitations.
- 6) Parking lots in the Central Business and Commercial Districts shall meet the building siting standards of Section 3.3 (E).
- 7) The Development Review Board may increase or decrease the number of parking spaces required if it is demonstrated that a different number of spaces is more appropriate for a particular use or a particular site. Shared parking and the utilization of on-street parking are encouraged, and may be required.

#### **D) Loading and Service Areas**

- 1) Where a proposed development will necessitate frequent or regular loading or unloading of goods, sufficient on-site service areas shall be provided. Service areas may be required for emergency vehicles, loading and unloading, waste disposal and collection, bus, taxi, or van service, and other purposes as may be necessitated by the proposed use.
- 2) All loading and service areas shall be located in such a manner so that parked vehicles will not block or obstruct sight visibility at intersections to or from any internal or external road or access.
- 3) The following off-street loading and unloading spaces shall be required (The Development Review Board may modify these requirements in the Central Business District based on site limitations):
  - a) Retail Business & Services. One space of at least 250 square feet for each 3,000 square feet of floor area of part thereof.
  - b) Wholesale & Industrial. One space of at least 500 square feet for each 10,000 square feet of floor area or part thereof.
  - c) Bus & Truck Terminal. Sufficient space to accommodate the maximum number of buses and trucks to be stored or to be loading or unloading at the terminal at any one time.

#### **SECTION 4.11 PERFORMANCE STANDARDS**

- A)** No land or building in any zoning district shall be used or occupied in any manner that creates dangerous, injurious, noxious or otherwise objectionable conditions which adversely affect the reasonable use of adjoining properties.
- B)** The following standards must be met by all uses in all districts, with the exception of Accepted Agricultural Practices and Accepted Management Practices for forestry. The burden of proof in meeting the standards shall fall upon the applicant. Land uses shall not:

- 1) Emit any intensity of odor that is considered both offensive and uncharacteristic of the area;
- 2) Emit any level of noise which is excessive at the property line and any noise or disturbance that disturbs, destroys, or endangers the comfort, quiet, repose, health, peace, or safety of others within the immediate vicinity of the noise or disturbance so as to be incompatible with the surrounding area;
- 3) Emit any dust, fumes, mist, smoke, other particle matter, vapor, gas, odorous substances, or any combination which endanger the health, comfort, safety, or welfare of the public or adjoining property owners, or which causes damage to property, business, or vegetation;
- 4) Emit glare or reflection which impairs the vision of motor vehicle operators, constitutes a nuisance to other property owners, or which is detrimental to public health, safety, and welfare;
- 5) Present a risk as to fire, explosion, or safety that endangers the public or results in an increased burden upon municipal facilities;
- 6) Discharge sewage, septic, or other harmful wastes into any watercourse or into any sewage disposal system beyond its proper capacity.

#### **SECTION 4.12 SIGNS**

**A) Applicability and Purpose.** A zoning permit in conformance with this section is required for all signs that can be viewed and/or are intended to be viewed from the public right-of-way, except as exempted below. The purpose guiding these regulations is to allow visual communication that is compatible with the zoning district in which it is located, non-distracting for motorists, and maintained in good repair. When use of a property is changed or terminated, any sign associated with such use, including frames and supports, shall be removed within 7 days.

**B) Sign Exemptions.** The placement of signs, such as sandwich board signs or portable signs, in the public right of way, including on public sidewalks, must comply with the Village of Enosburg Falls Board of Trustees Policy Regarding Placement of Signs on Sidewalks/Right of Ways. Signs subject to this Policy and the signs listed below do not require a zoning permit, but are subject to the design and safety requirements of (G) below.

- 1) Signs erected by the Town or State on public roads;
- 2) Non-advertising signs placed for direction or safety purposes (i.e. "restrooms", "handicapped parking"), each not to exceed 2 square feet in area;
- 3) One temporary auction, lawn sale, real estate for sale sign, or other similar temporary sign not to exceed 4 square feet in area. All such temporary signs shall be promptly removed when they have fulfilled their functions;
- 4) One temporary construction sign not exceeding 24 square feet on a property being developed, which shall be promptly removed when construction is completed;
- 5) One residential sign announcing the name and/or address of the occupant on the premises, not to exceed 2 square feet in area;
- 6) Roadside stand signs, not to exceed 2 in number and 16 square feet in combined area. One sign may remain in place during the season when the stand is not open for business;



- 7) Signs to be maintained for not more than four weeks announcing an event of a non-profit organization.
- 8) Signs placed temporarily on motor vehicles for the purposes of offering that particular motor vehicle for sale.
- 9) Commercial advertising of a temporary nature.
- 10) Signs of not more than 3 square feet in area attached to automobile service station fuel pumps.
- 11) Signs or flags indicating that a business is open and/or the hours of operation, provided such signs or flags are
  - a) limited to one per use (one for hours of operation and one open/closed sign, or one for both);
  - b) are located on the premises of the use for which the sign is advertising;
  - c) do not exceed 10 square feet for a flag and 2 square feet for a sign.

**C) Sign Quantity, Type, and Other Specifications by Zoning District.** The number of signs, the type, and other sign specifications allowed on a particular property varies by zoning district as provided below.

- 1) **Low and High Density Residential Districts.** One sign not to exceed 8 square feet in area and 6 feet in height shall be allowed per use. No illuminated, flashing, or signs with moving parts are permitted. No strings of lighting or pennants, or similar attention gathering media, are permitted.
- 2) **Central Business District.** Two signs are permitted for each primary establishment. Maximum size of any sign shall be 30 square feet or a total of 50 square feet for the two signs.
- 3) **Commercial and Industrial Districts.** A sign or combination of signs that do not have an area greater than 10% of the area of the side of the building facing the street or that provides the main entrance shall be permitted. No business shall have a total sign area that exceeds a total area of 100 square feet.

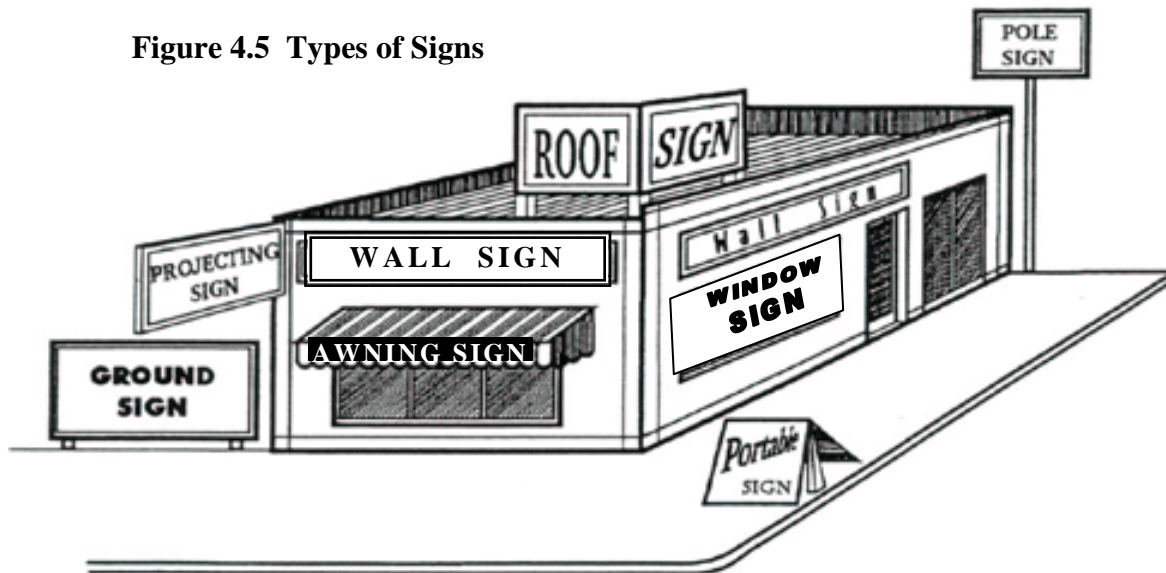
**D) Computation of Sign Size.** The following provisions shall be used to calculate sign size:

- 1) Existing signs shall be included in the computation of total sign area, except for those exempted above.
- 2) Signs printed back-to-back shall be counted as one sign.
- 3) Sign measurement shall be the area included within the extreme limits of the sign surface excluding the sign frame.
- 4) Where a sign consists of individual letters or symbols attached to a building, wall, or window, the area shall be considered to be the smallest rectangle encompassing all the letters or symbols, as shown below:

The
Restaurant
This

The
Restaurant
Not This

**Figure 4.5 Types of Signs**



- E) Specifications for Sign Types (as illustrated in Figure 4.5).** The following types of signs may be permitted and are required to meet the specifications provided below:
- 1) Awning Signs:** A sign painted on or attached to the cover of a moveable metallic frame of the hinged, roll, or folding type of awning.
    - a) Such sign shall be painted on or attached flat against the surface of the awning, but not extend beyond the valance or be attached to the underside.
    - b) A minimum of 7 feet above sidewalk level shall be allowed for pedestrian clearance.
  - 2) Freestanding (Pole) or Ground Signs:** A sign supported by structures or supports that are placed on, or anchored in the ground and are independent from any building or other structure.
    - a) The height of a free-standing (pole) sign shall not exceed 20 feet.
    - b) Free standing signs over 6 feet in height may not have more than 2 sides.
  - 3) Projecting Signs:** A wall-mounted sign perpendicular to the side of a building.
    - a) Each face shall not exceed 10 square feet.
    - b) Such sign shall be hung at right angles to the building and shall not project more than 5 feet out from the building.
    - c) Projecting signs shall have a minimum clearance of 10 feet above grade when located adjacent to or projecting over a sidewalk. If projecting over an alley or driveway, the clearance shall be at least 13 feet.
  - 4) Wall Signs:** A sign which is attached parallel to the exterior surface of a building or structure.
    - a) Such sign shall not project more than 15 inches from the building surface.
    - b) Wall signs shall not extend higher than the eave line or top of the parapet wall of the principal building.
  - 5) Window Signs:** Any sign which is painted or mounted onto a window pane, or which is hung directly inside the window with the purpose or effect of identifying any premises from the sidewalk or the street.

- a) Window signs shall not exceed more than 30 percent of the window area in which they are displayed.
- 6) **Portable Signs or Sandwich Boards:** A sign that consists of two boards hinged at the top to create an A-frame and are placed on the ground. Portable/sandwich board signs shall not exceed five (5) square feet of surface per one sided sign and ten (10) square feet of surface as a combination of both sides of the portable/sandwich board sign. Portable/sandwich board signs located in the public right of way, including on public sidewalks shall comply with the Village of Enosburg Falls Board of Trustees Policy Regarding the Placement of Signs on Sidewalks/Right of Ways.
- 7) **Clustered Signs:** Signs that are on one signpost or physically connected to one another in some manner and include "common signs" advertising more than one business.
  - 1) Each sign in a cluster shall be counted toward the number and area of signage allowed for the business to which it refers.
  - 2) If the signs refer to businesses or uses conducted on a number of adjoining lots, the signpost may be located on any such lot.
  - 3) The signpost or common sign may contain 4 square feet for each business advertised, but shall in no event be more than 40 square feet in size. The signpost may not be more than 15 feet in height.
- 8) **Roof Signs:** Roof signs that extend above the average roofline as shown in Figure 4.5 are specifically prohibited.

**F) Sign Design and Safety Requirements.** Every sign shall be designed and located in conformance with the following:

- 1) Signs shall not pose a threat to public safety or a hazard to drivers. For example:
  - a) Signs shall not interfere with, imitate, or appear to be an official highway or street sign or signal.
  - b) Signs shall not obstruct free and clear vision between a sidewalk and street or access from the site or street onto another street.
  - c) Signs shall not prevent free movement from any door, window, or fire escape.
  - d) Signs are not permitted within a right-of-way or utility easement.
  - e) Signs shall not be closer than 15 feet to the traveled portion of a street.
  - f) All signs with animated, flashing, or with intermittent illumination are prohibited, except barber poles and signs containing clocks and/or temperature readings.
  - g) Signs may be illuminated by a steady light which must be of one color, and which does not cause a traffic hazard. The lighting shall be directed downward, from above the sign.

**G) Additional Design Requirements.** Every sign shall be designed and located in conformance with the following:

- 1) The primary purpose of any sign shall be identification, and may state only the name and/or trademark of the establishment and the business or activity conducted on the premises.
- 2) All signs including their supports and hardware shall be of substantial and sturdy construction and shall be kept in good repair.
- 3) No sign may be erected on natural features such as rocks or trees, or on utility poles.
- 4) Signs on buildings shall not extend above the average roofline; roof signs as shown in Figure 4.5 above are specifically prohibited.

- 5) Signs are not permitted in side or rear setbacks.
- 6) No sign may be affixed to any vehicle in such a manner that the display of such a sign is a primary purpose of the vehicle.
- 7) Any sign located elsewhere than upon the lot containing the subject of the sign shall conform to state statute and regulation.

#### **SECTION 4.13 TEMPORARY/SEASONAL USES AND STRUCTURES**

- A) Temporary zoning permits may be issued by the Zoning Administrator for temporary uses and structures that do not conform to these regulations and that are incidental to construction projects, provided that the property owner shall remove the temporary structure or use upon the expiration of the construction project permit.
- B) Temporary and seasonal roadside stands that sell primarily locally grown agricultural products shall be permitted if sufficient customer parking is provided off the traveled surface of the road and the stand is erected at least 20 feet back from the nearest edge of the highway right of way.
- C) Garage/porch/lawn sales shall be conducted according to Section 5.7 of these regulations.
- D) Each tenant/home owner shall not be allowed more than one auction per year at his place of residence.

#### **SECTION 4.14 WASTEWATER TREATMENT AND WATER SUPPLY**

- A) **Purpose.** The purpose of this section is to protect human health and the environment, including potable water supplies, surface water, and groundwater.
- B) **Wastewater and Potable Water Supply Permit.** All structures and uses that generate wastewater (including those that connect to the Village Sewer and/or Water Supply System) may be required to obtain a Wastewater and Potable Water Supply Permit from the Vermont Department of Environmental Conservation (DEC) in accordance with 10 V.S.A. Chapter 64 and the Wastewater System and Potable Water Supply Rules (dated September 29, 2007 or as revised from time to time by the DEC). Applicants should contact the Agency of Natural Resources District Permit Specialist to determine if such a permit is required. If, according to the DEC, a Wastewater System and Potable Water Supply Permit is not required, the property owner/applicant shall provide written proof from the DEC of such to the Zoning Administrator. Where a Wastewater and Potable Water Supply Permit is required, initiation of construction under a zoning permit issued in accordance with the Enosburg Falls Land Use and Development Regulations shall be prohibited unless and until a Wastewater and Potable Waters Supply Permit is issued.
- C) **Municipal Sewer and Water Allocation.** All structures and uses that will connect to the Municipal Sewer Treatment System and/or the Municipal Water Supply System must obtain allocation approval in accordance with the Village Sewer Use Ordinance and the Village Water System Ordinance prior to the issuance of a zoning permit. See also Section 8.7 of the Planning and Design Standards.

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

### **SECTION 5.1 ACCESSORY DWELLINGS**

- A) Applicability.** One accessory dwelling to a single family dwelling may be allowed as a permitted use of property. An accessory dwelling is 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 provision for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:
- 1) The property has sufficient wastewater capacity.
  - 2) The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling.
  - 3) Applicable setback, coverage, and parking requirements specified in the regulations are met.
  - 4) The owner lives in either the single family dwelling or the accessory apartment.
- B) Permit Requirement.** A zoning permit issued for an accessory dwelling shall clearly state that the dwelling (s) is permitted only as an accessory to the principal residential use of the property and as such shall be retained in common ownership. Such a dwelling unit may be subdivided and/or converted for conveyance or use as a principle dwelling only if it is found to meet all current municipal regulations applying to a single (or two) family dwelling, including all density and dimensional requirements for the district in which it is located. All applicable municipal permits and approvals shall be required prior to the subdivision, conversion, or conveyance as a principal dwelling.

### **SECTION 5.2 ADAPTIVE REUSE OF HISTORIC STRUCTURES**

- A)** Adaptive reuse is intended to encourage the continued viability, reuse, restoration and rehabilitation of historically, culturally or architecturally significant structures within the Village of Enosburg Falls. The adaptive reuse of such a structure is allowed in certain zoning districts as provided in Table 2.1 and is subject to conditional use review under Section 3.2, site plan review under Section 3.3, and the provisions below.
- B) Applicability.** Structures eligible for adaptive reuse are limited to those which:
- 1) are no less than 50 years old and are listed in, or eligible for listing in, the Vermont Historic Sites and Structures Survey for the Village of Enosburg Falls; or
  - 2) have historical, cultural, or architectural significance to the Village, as determined by the Development Review Board upon application. The Development Review Board may make a determination regarding the eligibility of a particular structure for adaptive reuse in consultation with the Vermont Division of Historic Preservation or a qualified architect or architectural historian. A proposed business may be owned by a person other than the property owner.

- C) Application Requirements.** In addition to application requirements for conditional use review and site plan review in Article 3, the application for an adaptive reuse shall also include following:
- 1) Elevation drawings showing the existing view and proposed renovations for all walls that are proposed to have alterations, including new or altered windows or doors.
  - 2) Written documentation of the structure's significance (particularly historical significance) prepared by a qualified architect, architectural historian, or the Vermont Division of Historic Preservation.
- D) Uses.** The following uses may be allowed in structures, which are determined by the Development Review Board to be eligible for adaptive reuse:
- 1) Any permitted and conditional use allowed within the district in which the structure is located;
  - 2) Accessory dwelling;
  - 3) Single and multi-family dwelling, at a density not more than the density (units/acre) required for the district in which the building is located; except as allowed for planned unit developments under Article 6;
  - 4) Home occupations and home industries (see Section 5.9);
  - 5) Business or professional office(s) having a total floor area of not more than 3,500 sq. ft.;
  - 6) Restaurant;
  - 7) Bed and breakfast or lodging facility with no more than 10 guest rooms;
  - 8) Cultural facility (e.g., library, museum, theater, performance space);
  - 9) Community center or private club;
  - 10) Retail store with a total display and sale area of not more than 3,500 sq. ft.;
  - 11) Health clinic;
  - 12) Veterinary clinic;
  - 13) Other similar uses; or
  - 14) A combination of the above.
- E) Conditional Use Review Standards.** In addition to conditional use review requirements under Section 3.2 and the General Requirements in Article 4, it shall be demonstrated to the satisfaction of the Development Review Board that a structure intended for adaptive reuse which is accessory to a principal structure shall be retained in common ownership with the principle structure; however the proposed business may be separately owned by a person other than the property owner.
- F) Site Plan Review Standards.** In addition to site plan review requirements under Section 3.3, it shall be demonstrated to the satisfaction of the Development Review Board that:
- 1) Access (curb cuts), driveways, and parking shall, to the extent feasible, be shared with other uses on the same parcel.
  - 2) Any rehabilitation or restoration associated with an adaptive reuse shall not significantly alter the façade or historic character of the structure. Any proposed exterior renovations shall conform to guidelines set forth in the most recent edition of The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings [36 CFR 67](<http://www.nps.gov/history/hps/TPS/tax/rhb/>).

- 3) The Development Review Board may require an independent technical review of the proposed rehabilitation or restoration, prepared by a qualified professional architectural historian at the applicants own cost.

### **SECTION 5.3 GAS STATIONS AND AUTOMOBILE REPAIR ESTABLISHMENTS**

- A)** Because of the nature of the materials stored and sold by gas stations and automobile repair establishments and the nature of the traffic patterns associated with them, these uses shall comply with the following additional requirements, irrespective of the zoning district in which they are located.
- 1) A gas station or automobile repair establishment lot shall not be located within 300 feet of any lot occupied by a school, hospital, library, or religious institution.
  - 2) Pumps, lubricating and other service devices shall be located at least 50 feet from the edge of the traveled portion of the roadway and side and rear lot lines.
  - 3) All fuel and oil shall be stored at least 35 feet from any property line.
  - 4) All automobile parts and dismantled vehicles are to be stored within a building unless screening from public view is provided.
  - 5) There shall be no more than two access driveways from the road.
  - 6) A suitably curbed, landscaped area shall be maintained at least five feet in depth along all road frontage not used as driveway.

### **SECTION 5.4 CAMPING VEHICLES AND CAMPGROUNDS**

- A) Camping Vehicles.** Any camping vehicle as defined in Article 10 used for living quarters and sited so it is not readily movable shall be deemed a dwelling and shall be subject to all zoning and health regulations applicable to dwellings.
- 1) A camping vehicle may be occupied on the property of its owner or, with the permission of a relative or friend, upon the property of said relative or friend, provided the vehicle meets all district setback requirements and the period of occupancy does not exceed 45 days in a 6 month period.
  - 2) Owners of lots used for camping are responsible for the sanitary disposal of wastewater in accordance with Section 4.14 of these regulations.
  - 3) Use of a lot for camping is restricted to one tent or shelter, recreational vehicle, or other temporary structure per legal lot.
- B) Campgrounds.** New campgrounds (see definition Article 10) and any addition or alteration to an existing campground are subject to conditional use review and the following regulations:
- 1) Campgrounds shall provide for lavatory, shower and toilet facilities, and individual camping vehicle or tent spaces. All campgrounds shall comply with state regulations.
  - 2) A strip of land at least 25 feet wide shall be maintained as a landscaped area abutting all campground property lines. No camping vehicle, tent, or service building shall be located in this buffer area. The Development Review Board may reduce or eliminate this landscaped area provisions if such a modification or waiver will make it possible to preserve a scenic view from the campground, providing that privacy for adjacent property owners can be maintained.

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

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

- 4) A campground shall provide access driveways, and parking for individual vehicles.

### SECTION 5.5 CHILD CARE HOMES

- A) A "child care home" as used in these regulations means a home where the owner or operator is licensed or registered by the State to provide child care on a regular basis in the caregiver's own residence for not more than 6 full time and 4 part time children (as defined in 33 V.S.A. §4902 (A)) at any one time. A child care home shall be considered to constitute a permitted single family residential use of property
- B) A child care home that does not meet the provisions of this section shall be considered a childcare facility and is subject to all applicable permits and approvals required by these regulations (see Table 2.1).

### SECTION 5.6 EXTRACTION, QUARRYING, EXCAVATION, AND FILL

- A) **Applicability.** No new earth resource extraction, quarrying, or processing operation, land alteration, excavation, or fill operation that would cause a change in the rate or direction of drainage, mineral or gas exploration or drilling, expansion of an existing operation, or a resumption of an inactive operation shall be permitted without conditional use approval from the Development Review Board. No land filling operations will be allowed within the Village of Enosburg Falls. Notice of any fill operation within fifty feet of a drainage swale (natural or manmade), culvert or in excess of five hundred yards shall be brought to the Zoning Administrators attention.
- B) **Application.** In addition to the Conditional Use Application requirements in Section 3.2, applicants shall provide the following information.
- 1) A landscaping plan to screen noise, dust, and visual effects of the operation from adjoining properties;
  - 2) An erosion and sediment control plan;
  - 3) A site rehabilitation plan, including schedule of implementation;
  - 4) A description of the proposed methods of operation including operating hours and the duration of operation, types and quantity of equipment and trucks to be used, location and method of spoil disposal, and a transportation plan addressing both on- and off-site trucking activities;
  - 5) Any other information the board requires to determine whether the proposed operation conforms to the standards of these regulations.
- C) The burden of proof shall be on the applicant to show that the proposed operations may be feasibly undertaken without violating the standards contained within this section and without substantial damage or hazard to the public or adjoining properties.



**D) Specific Standards.** In considering an application under this section, the Development Review Board shall consider the following specific standards in addition to the Conditional Use Standards in Section 3.2.

- 1) Adjoining land areas should be protected from undue adverse impacts resulting from dust, noise, or air pollution. There shall be a minimum setback of 200 feet from adjoining properties for all extraction or processing activities, except for offices and accessory uses.
- 2) Within the required setback areas, the natural vegetation shall be retained, and supplementary planting may be required in order to buffer impacts from the operation.
- 3) An erosion and sedimentation control plan shall be submitted and shall provide that increased run-off shall not be permitted beyond the property boundaries of the proposed project area.
- 4) No operation shall be permitted which may result in the pollution of surface or ground water through by-products of the proposed operation.
- 5) Suitable fencing or other appropriate safety precautions may be required around extraction sites, sedimentation ponds, and spoil or equipment storage areas.
- 6) Proposed operations shall not create unusual or unreasonable traffic hazards or the need for special public improvements or maintenance of public streets or bridges which would place an unreasonable additional financial burden on the Village.
- 7) Explosives may be used only per a plan approved under this section and only after it has been demonstrated by the applicant that the use of such materials will not have an adverse impact on adjoining properties.

**E) Site Rehabilitation.** Activities involving the extraction, exploration, or processing of earth resources disturb the natural landscape and utility of the site. These provisions are intended to ensure that the entire site, at the conclusion of such activities, is restored to a condition that is free of hazards to the public and is conducive to subsequent use for other activities. Site rehabilitation plans shall cover the entire property and include the following:

- A plan for final grading and topography, including drainage patterns;
  - Location and depth of relocated topsoil;
  - Location, type, size, and quantity of restoration plan materials;
  - Sequence and timing of rehabilitation activities; and
  - Provision for adequate bonding or surety to cover rehabilitation.
- 1) In considering a site rehabilitation plan, the Development Review Board shall consider the following specific standards:
    - a) Suitability of the site following rehabilitation for uses that are permissible under the applicable zoning district;
    - b) Compatibility of the rehabilitated site with the character of the natural landscape in the vicinity of the site;
    - c) The top 12 inches of topsoil on all disturbed areas shall be stockpiled for use in rehabilitating the site;
    - d) Implementation of rehabilitation activities shall be on a continuing basis, commencing as soon as practical where extraction activities have been completed;
    - e) Stormwater runoff and erosion/sedimentation following rehabilitation shall not exceed that which existed prior to development; and

- f) Bonding or surety shall be at a level to cover the costs of rehabilitating all disturbed areas and be of an amount approved by the Village Trustees

### **SECTION 5.7 GARAGE, PORCH, AND LAWN SALES**

- A) The purpose of these standards is to ensure the maintenance of the residential character of neighborhoods while permitting homeowners to take advantage of this traditional residential activity.
- B) Garage/lawn/porch sales that do not last for more than three (3) consecutive days nor more than three (3) times a year do not require a zoning permit. Signs for garage/lawn/porch sales shall be considered temporary signs regulated according to Section 4.12(B)(3).
- C) Any garage/lawn/porch sale that exceeds the standards set in this section shall be considered a home occupation or a home industry, and shall be subject to Section 5.9.

### **SECTION 5.8 GROUP HOMES**

- A) A group home, to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A. §4501, shall be considered to constitute a permitted single family residential use of property, except that no such home shall be so considered if it locates within 1,000 feet of another existing or permitted home. Use of a group home in a pre-existing non-conforming single family home shall not constitute an expansion of the non-conforming use.
- B) A community care home or group home, to be operated under state licensing or registration, serving nine or more who have a handicap or disability as defined in 9 V.S.A. §4501 or otherwise does not apply to Section 5.8(A) above, shall be reviewed as a community care facility according to Table 2.1.

### **SECTION 5.9 HOME BASED BUSINESSES (INCLUDING HOME OCCUPATIONS AND HOME INDUSTRIES)**

- A) **Home Occupations.** No provision of this bylaw shall infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which is customary in residential areas and which does not change the character of the area.
  - 1) A home occupation is permitted as an accessory use for all residential uses.
  - 2) In order to ensure that a home occupation will not change the character of the residential area, it will comply with all of the following standards:
    - a) The home occupation shall be clearly incidental and secondary to the residential use of the property, and shall be conducted wholly within the principal and accessory structures, and shall occupy less than 25% of the entire floor area of such structures.
    - b) The home occupation shall be carried on by residents of the dwelling unit. No more than one additional employee who is not a resident of the dwelling unit is permitted on site at one time.

- c) All business activities or transactions associated with the home occupation shall be carried on entirely within the dwelling unit and/or accessory structures, no outside storage shall be permitted.
- d) No traffic shall be generated which would be uncharacteristic of the neighborhood.
- e) New parking required for the home occupation shall be provided off-street and shall not be located in front yards.
- f) No objectionable noise, vibration, odor, smoke, dust, electrical disturbance, heat, or glare shall be produced by the home occupation.
- g) Exterior displays or signs other than those normally permitted in the district shall be prohibited.

**B) Home Industries.** The purpose guiding these regulations is to allow for small, home-based business and industry within residential areas while guarding the property rights of neighboring households.

- 1) A home industry shall be a conditional use in designated zoning districts. In order to receive a conditional use permit, the home industry must comply with the requirements of Section 3.2 for conditional uses, as well as the requirements below.
- 2) The home industry shall be carried on within the principal dwelling unit or accessory structures, and shall occupy less than 50% of the combined area of all structures on the lot.
- 3) The home industry shall be carried on by residents of the principal dwelling unit. No more than two on-premise employees who are not residents of the dwelling unit shall be permitted on site at one time.
- 4) The business shall not necessitate any change in the outside appearance of the dwelling unit other than the addition of one sign as permitted in Section 4.12.
- 5) Exterior storage of materials is prohibited.
- 6) No traffic shall be generated in greater volumes than would be normally expected in the neighborhood.
- 7) New parking required for the home industry shall be provided off-street, and shall not be located in front yards.
- 8) No objectionable noise, vibration, odor, smoke, dust, electrical disturbance, heat, or glare shall be produced by the home industry.

## **SECTION 5.10 MIXED USES**

**A)** In zoning districts where mixed uses are allowed as provided in Table 2.1, more than one use may be permitted within a single building or in multiple buildings on a single lot subject to conditional use review in accordance with Section 3.2 and the following provisions:

- 1) Each of the proposed uses is otherwise allowed as a permitted or conditional use in the district in which the mixed use is proposed.
- 2) The combined uses meet all applicable standards for the district in which the mixed use is proposed, including minimum setbacks and frontage, and minimum lot size (unless such standards are modified as part of a planned unit development).
- 3) The mixed use meets all applicable general regulations and use provisions contained in Articles 4 and 5.

- 4) If one of the uses included in the mixed use requires site plan approval, the mixed use shall require site plan approval.

## **SECTION 5.11 MOBILE HOME PARKS**

**A) Applicability.** Mobile home parks are subject to the requirements of this section and State Law. The State definition of a Mobile Home Park shall be applicable for this section; see Article 10.

**B) Permits and Approvals.**

- 1) Replacement of an existing mobile home in an existing mobile home park, where the existing mobile home meets the standards in (C) below, with the same or smaller size mobile home shall require a zoning permit from the Zoning Administrator.
- 2) Replacement of an existing mobile home in an existing mobile home park, where the existing mobile home meets the standards in (C) below, with a larger mobile home that meets the standards in (C) below shall require a zoning permit from the Zoning Administrator.
- 3) Replacement of an existing mobile home in an existing mobile home park that meets the standards in (C) below, with a larger mobile home that would not meet the standards in (C) below, or replacement of an existing mobile home that does not meet the standards in (C) below with a new mobile home (whether it be smaller, the same size, or larger), shall require site plan approval by the Development Review Board. In granting such approval the Board shall not modify the mobile home lot line setback standards by more than 50% and shall ensure that the expansion does not encroach upon any public or private right-of-way. The requirements of Section 3.6 shall in no case be modified if such replacement is located in the Flood Hazard Area Overlay District.
- 4) New mobile home parks, and any addition or alteration to an existing mobile home park, shall be reviewed as a Planning Unit Development by the Development Review Board and shall be subject to the standards in this section in addition to the Planned Unit Development standards in Article 6 and all other applicable provisions of this regulation. "Addition" shall mean modifying an existing mobile home park by increasing the number of sites or mobile homes in the park. Alterations involving the erection, construction, or placement of accessory structures shall not be required to obtain conditional use approval by the Development Review Board; however, a building permit will be required for all accessory structures.

**C) Mobile Home Lot Dimensional Standards.** The following dimensional standards shall ensure public health, safety, and welfare in mobile home parks in the Village of Enosburg Falls.

- 1) The minimum mobile home lot size shall be 8,000 square feet.
- 2) Each mobile home lot shall have at least 50 feet of frontage on a mobile home park road.
- 3) Minimum side and rear yards of 10 feet, and a minimum setback from the access road of 25 feet are required for mobile homes and accessory structures on each lot. All structures shall maintain a 100-foot setback from shorelines, streams, or riverbanks.

**D) Mobile Home Park General Standards.** In granting site plan or planned unit development approval, the Development Review Board must find that the application conforms to the following standards:

- 1) A mobile home park shall have a contiguous area of not less than 5 acres or more than 50 acres.
- 2) A strip of land at least 50 feet wide shall be maintained as a landscaped area abutting all mobile home park boundary lines. No mobile home unit, office, utility, or service building may be placed in this buffer area. However, the Board may reduce or eliminate this landscaped area requirement if such modification or waiver will make it possible to preserve a scenic view from the park, provided that privacy for adjacent property owners can be maintained.
- 3) A minimum of two parking spaces for each mobile home lot shall be provided. Each parking space shall be at least 9 feet wide by 20 feet long.
- 4) A non-porous pad of at least 4 inches thick shall be provided for each mobile home lot.
- 5) Sewage disposal, water supply, and garbage facilities shall comply with state regulations. All electric, telephone, and other utility lines shall be underground, unless the applicant can demonstrate that due to utility company standards or pricing procedures, an unreasonable financial hardship will be created.
- 6) Each mobile home park shall provide at least 10% of its total area for open space and recreational purposes for the use of park residents. The Development Review Board, as a condition of approval, may establish such conditions as to the ownership, use, and maintenance of such land as it deems necessary to assure the preservation of such lands for their intended purpose.
- 7) Individual tenants of the mobile home park may erect, construct, or place no more than 2 accessory structures on a mobile home lot, provided that such structures combined do not exceed 60% of the floor area of the mobile home. Individual building permits shall be required for each such structure.

## **SECTION 5.12 PUBLIC FACILITIES**

**A)** In accordance with the Act [Section 4413], the following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off street parking and loading, traffic, noise, lighting, and landscaping or screening requirements, and only to the extent that the regulations do not interfere with the intended functional use:

- 1) Public utility power generating plants and transmission lines;
- 2) State or community owned and operated institutions and facilities;
- 3) Public and private schools and other educational institutions certified by the Vermont Department of Education;
- 4) Churches and other places of worship (see definitions), convents, and parish houses;
- 5) Public and private hospitals;
- 6) Regional solid waste facilities certified by the State [10 V.S.A. chapter 159]; and
- 7) Hazardous waste management facilities for which a notice of intent to construct has been received under state law [10 V.S.A. 6606a].

## SECTION 5.13 TELECOMMUNICATIONS FACILITIES

**A) Authority and Purpose.** New or expanded telecommunications facilities, including but not limited to towers and accessory structures are subject to conditional use review and the provisions of this section. In conformance with 24 V.S.A. § 4412(9), the Development Review Board may permit new or expanded telecommunications facilities if the board finds that the facility will impose not more than a de-minimus impact on the conditional use standards in Section 3.3 and the criteria (E) below.

**B) Exemptions.**

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

**C) Supplemental Application Requirements.** In addition to the application requirements required for conditional use review a Wireless Telecommunication Facility permit application shall also include:

- 1) A vicinity map showing the entire vicinity within a 2 mile radius of the Facility, including the location of all existing and proposed towers, topography, public and private roads and driveways, buildings and structures, utilities, water bodies, wetlands, 50 foot contour lines, landscape features, historic sites and significant wildlife habitats. It shall indicate the property lines of the proposed Facility site parcel and all easements or rights-of-way needed for access from a public way to the Facility.
- 2) Elevations and proposed site plans of the Facility showing all facades and indicating all exterior materials and colors of towers, buildings and equipment, as well as all landscaping, utility wires, guy wires and screening. (All plans shall be drawn at a minimum scale of 1 inch = 50 feet.)
- 3) In the case of a site that is forested, the approximate average elevation of the existing vegetation within 50 feet of any tower base.
- 4) A report from a qualified engineer that:
  - a) Describes any tower's design and elevation.
  - b) Documents the elevation above grade for all proposed mounting positions for antennas to be mounted on a tower and the minimum distances between antennas.

- c) Describes a tower's capacity, including the number, elevation and types of antennas that the tower is proposed to accommodate.
  - d) In the case of new Facilities, demonstrates that existing towers and structures within five miles of the site cannot reasonably be modified to provide adequate coverage and adequate capacity to the community.
  - e) Describes potential changes or additions to existing structures or towers that would enable them to provide adequate coverage.
  - f) Describes the output frequency, number of channels and the power output per channel for each antenna. In the alternative, a coverage map may be provided.
  - g) Demonstrates the Facility's compliance with the standards set forth in this bylaw or other applicable standards.
  - h) Provides proof that at the proposed Facility site the applicant will be in compliance with all FCC regulations, standards and requirements, and includes a statement that the applicant commits to continue to maintain compliance with all FCC regulations, standards and requirements for radio frequency radiation (RFR).
  - i) Includes such other information as determined by the Development Review Board to evaluate the application.
- 5) A letter of intent committing the Facility owner and its successors to permit shared use of any tower if the additional users agree to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC regulations, standards and requirements and the provisions of this Bylaw and all other applicable laws.
  - 6) In the case of an application for additional antennas or other equipment to be installed on an existing Facility, a copy of the executed contract with the owner of the existing structure.
  - 7) To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the Facility, or a written statement by the applicant that an EA is not required for the facility.

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

- 1) The Facility will not be built on speculation. If the applicant is not a Wireless Telecommunication Service Provider, the applicant shall provide a copy of a contract or letter of intent showing that a Wireless Telecommunication Service Provider is legally obligated to locate a Wireless Telecommunication Facility on lands owned or leased by the applicant.
- 2) The Facility will not project more than 20 feet above the average elevation of the tree line measured within 50 feet of the highest vertical element of the Wireless Telecommunication Facility, unless the proposed elevation is reasonably necessary to provide adequate Wireless Telecommunication Service capacity or coverage or to facilitate installation and operation of facilities.
- 3) The minimum distance from the base of any tower to any property line is not less than 100% the total elevation of the tower, including antenna or equipment.
- 4) The Facility will not be illuminated by artificial means and will not display any lights or signs except for such lights and signs as required by Federal Aviation Administration, federal or state law, or this bylaw.

- 5) The Development Review Board may require the applicant to provide a bond, or other form of financial guarantee acceptable to the Development Review Board, to cover the cost of removal of the Facility, should the Facility be abandoned or cease to operate.
- 6) The applicant shall demonstrate that the facility will be in compliance with all FCC standards and requirements regarding radio frequency radiation. The owner of a Wireless Telecommunication Facility shall, on a yearly basis, file a certificate showing that it is in compliance with all FCC standards and requirements regarding radio frequency radiation, and that adequate insurance has been obtained for the Facility. Failure to file a certificate within the timeframe requested by the Development Review Board, shall mean that the Facility has been abandoned.
- 7) The Facility will be properly identified with appropriate warnings indicating the presence of radio frequency radiation.
- 8) The proposed equipment is installed on an existing Wireless Telecommunication Facility, unless it is demonstrated by the applicant that such co-location is not structurally or spatially possible.
- 9) The Facility provides reasonable opportunity for the installation and operation of other telecommunications equipment.
- 10) Unless otherwise approved by the Development Review Board, an abandoned or unused Wireless Telecommunication Facility shall be removed within 2 years of abandonment or cessation of use. The applicant may apply to the Development Review Board for an extension for removal. If the Facility is not removed, or an extension granted, within 2 years of abandonment or cessation of use, the Development Review Board may cause the Facility to be removed. The costs of removal shall be assessed against the Facility owner. Unused portions of a Wireless Telecommunication Facility shall be removed within 1 year of the time that such portion is no longer used. Replacement of portions of a Facility previously removed shall require a new permit.

**E) Additional Conditional Use Criteria.** In addition to the Conditional Use Standards in Section 3.3 and the construction standards in (E) above, the Development Review Board shall approve an application for a Wireless Telecommunications Facility when it finds that the application does not impose more than a de minimus impact on the following criteria:

- 1) The Facility will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.
- 2) The Facility will not have an undue adverse aesthetic impact. In determining this, the Development Review Board shall consider the following factors:
  - a. The results of the balloon test, if conducted.
  - b. The extent to which the proposed towers and equipment have been designed to blend into the surrounding environment through the use of screening, camouflage, architectural design, and/or imitation of natural features.
  - c. The extent to which access roads have been designed to follow the contour of the land and will be constructed within forest or forest fringe areas and not open fields.
  - d. The duration and frequency with which the Facility will be viewed on a public highway or from public property.
  - e. The degree to which the Facility will be screened by existing vegetation, topography, or existing structures.



- f. Background features in the line of sight to the Facility that obscure or make the Facility more conspicuous.
  - g. The distance of the Facility from the point of view and the proportion of the facility that is above the skyline.
  - h. The sensitivity or unique value of a particular view affected by the Facility.
  - i. Any significant disruption of a viewshed that provides context to an important historic or scenic resource.
- 3) The Facility will not generate undue noise.

## SECTION 5.14 WIND ENERGY CONVERSION SYSTEMS

- A) Purpose.** The purpose of this section is to promote the safe, effective, and efficient use of wind energy conversion systems (WECs). All wind driven conversion or power generating facilities, windmills, and wind turbines, consisting of wind turbine generators, transmission lines and accessory buildings and structures, that **will not** be connected to any public utility power grid shall require a conditional use permit in accordance with this Section. WECs that will connect to a public utility power grid require a Certificate of Public Good from the Vermont Public Service Board under Act 248; no zoning permit or approval under these regulations is required.
- B) Exemptions.** WECs that are by nature ornamental, rather than functional, shall be exempt from attaining a permit if the total height is less than thirty-five (35) feet.
- C) Application Requirements.** In addition to the conditional use application requirements in Table 2.1, the application shall include a plot plan showing proposed location of all conversion system poles or towers, guy lines where required, guy line anchor bases and their distance from all property lines.
- D) Design Certification.** The safety of the design shall be certified by a professional engineer or by an authorized factory representative.
- E) Abandonment.** If the Zoning Administrator determines that any windmill has been abandoned for more than 12 months, or has become a hazard, he/she may revoke its permit and may require that it be removed by the owner.
- F) Review Standards.** In addition to the conditional use standards in Section 3.2, WECs shall conform to the following specific standards:
- 1) *Setback*- No part of the WECS shall be located within or above any required front, side, or rear setback area of the district in which it is located. The WECS shall be located at a distance of at least 1.25 times the height of the facility (measured from the base to the highest reach of the blade) from any structure occupied by humans and from all property lines. The setback from the property lines shall be waived if the abutters of those affected properties so grant their permission in writing.
  - 2) *Height*- The minimum height of the lowest position of the WECS blade shall be at least thirty (30) feet above the ground and forty (40) feet above the highest structure or tree within a two hundred and fifty (250) foot radius.

- 3) *Aesthetics*- The WECS shall be designed and placed in such a manner to minimize to the greatest extent feasible, all adverse visual impacts on neighboring areas. The colors and surface treatment of the WECS and supporting structures shall to the greatest extent feasible, minimize disruption of the natural characteristics of the site.
- 4) *Access*- To ensure safety, all towers or poles must be unclimbable by design for the first twelve (12) feet or be enclosed by a six (6) foot fence and locked gate at the perimeter of the base.
- 5) *Noise*- The windmill shall not exceed 60 dBA, as measured at the lot line.

## **ARTICLE 6. PLANNED UNIT DEVELOPMENT**

### **SECTION 6.1. PURPOSE**

- A) Planned unit developments (PUDs) are permitted in order to encourage flexibility in design and unified treatment of the development site; to promote efficient use of land; to facilitate the efficient and economical provision of streets and utilities; and to conserve the natural resources and scenic qualities of the village. Accordingly, the Development Review Board may modify the area and dimensional requirements of these regulations simultaneously with site plan approval or subdivision approval, whichever applies. Such modifications shall be subject to the general and specific conditions and standards in this section and in the district regulations, where applicable.

### **SECTION 6.2 APPLICATION & REVIEW PROCEDURES**

- A) An application for PUD approval shall be reviewed as a major subdivision if the project involves the subdivision on land. If a PUD does not involve the subdivision of land, the project shall require site plan review. Approval of a PUD that involves the development of one (1) or more conditional uses shall not exempt the proposed development from conditional use review in accordance with Article 3. In addition to the application requirements required for subdivision review or site plan review, which ever is required, applications for PUDs must include the following:
- 1) A brief summary of the project and how it meets the standards in this section; and
  - 2) A statement setting forth the nature of all proposed modifications of this bylaw and the proposed standards and criteria which the applicant proposes for the development, including standards for the spacing of buildings, sizes of lots, and open space;
  - 3) Articles of association, bylaws, or declarations of condominium for those developments that will provide common open space, recreation, roads, parking areas, community water & sewer systems, or other facilities used, owned, or maintained in common; and
  - 4) Plans for the permanent maintenance and/or management of open space areas included within the development.

### **SECTION 6.3 GENERAL STANDARDS.**

- A) The following shall be met in order for the Development Review Board to approve the application:
- 1) The project shall be consistent with the Enosburg Falls Municipal Plan.
  - 2) PUDs may include residential uses, nonresidential uses, public and private educational facilities, and industrial buildings and uses. Predominant uses of the site shall not differ from those allowed within the district where the project is located. Mixed uses shall be so arranged and buffered as to ensure visual and acoustical privacy to residents in the development.
  - 3) The area of any pond, lake, or stream shall be included as any part of the area required for a PUD or as part of the base for any density determination only to a maximum of 10% of the area of the parcel under consideration.

- 4) The Development Review Board may allow for a greater concentration or intensity of residential land use within some section or sections of the development than in others provided there is an offset by a lesser concentration in another section or sections or an appropriate reservation of open space on the remaining land in accordance with the standards in this Article.
- 5) Except as provided in Section 6.5 Density Bonus below, in any PUD, the number of units shall not exceed the number that could be permitted, in the Development Review Board's judgment, if the land were subdivided into lots in conformance with the applicable district requirements of this bylaw.
- 6) The development shall be an effective and unified treatment of the project site, and make appropriate provision for preservation of streams, stream banks, visual and physical access to the Missisquoi River, slopes greater than 25%, wetlands, soils, historic sites, natural areas, wildlife habitat, flood plain, and views.
- 7) The minimum setback and yard requirements for the district in which the project is located shall apply to the periphery of the development unless the Development Review Board finds it necessary to impose further requirements for setbacks, landscaping, and screening to protect the rights of adjoining property owners.
- 8) The development shall be proposed over a reasonable period of time in order that adequate municipal facilities and services may be provided. The Development Review Board may require that the project be developed in phases.
- 9) The project will meet the Planning and Design Standards in Article 8.

#### **SECTION 6.4 OPEN LAND.**

- A) The amount of undeveloped open land shall not be less than 25% of the total project area. Land set aside for park, recreation, open space, agriculture, forestry, wildlife habitat, natural areas, aquifer protection areas, stream bank protection, or municipal purposes shall be in a location, size, and shape approved by the Development Review Board. Land left open as part of a PUD shall meet the following requirements:
  - 1) The open land shall provide for the protection of resources on the site.
  - 2) The location shape, size, and character of the open land shall be suitable for its intended use.
  - 3) Open space land will be suitably improved and/or maintained for its intended use, except that open space containing natural resources worthy of preservation may be required to be left unimproved. Provision will be made to enable lands designated for agriculture and forestry to be used for these purposes. Management plans for forestry and wildlife habitat may be required.
  - 4) Open land shall be protected for its intended use by granting of conservation restriction or be conveyed in fee simple to one of the following as approved by the Development Review Board:
    - a) the village, if it agrees;
    - b) a non-profit corporation;
    - c) another suitable party provided there are appropriate conservation restrictions placed on the land and held by the village or suitable non-profit conservation organization, recorded with the deed, and used for a valid public purpose.

- 5) Open land shall be located so as to conform with and extend existing and potential common open land on adjacent parcels.
- 6) Additional measures that may be imposed to protect resources identified on the parcel include, but are not limited to, restrictions on building sites through designation of building envelopes and clearing limits.
- 7) Any land within the following categories shall not be used in the computation or designation of land which is to be left undeveloped or open for purpose of PUD:
  - a) sewage disposal areas;
  - b) surface areas of streams, rivers, ponds, or lakes greater than 10% of the original parcel;
  - c) any portion of a building lot;
  - d) utility easements;
  - e) streets, roads, driveways, parking areas, or rights-of-way; and
  - f) water supply areas.

### **SECTION 6.5 DENSITY BONUS**

- A) The Development Review Board is authorized to grant a density increase of up to 25% beyond the number of units, which could be permitted under the provisions of Section 6.3(5) above, for projects which further policies and objectives established in the municipal plan or for optimal project design. The Development Review Board may decide the amount of the density bonus based upon the features of the specific site, and will provide their rationale in the findings of fact for the approval of the site plan. Criteria for granting of density bonus are as follows:
- 1) Providing public access to the Missisquoi as a recreation resource and village business attraction
  - 2) Protecting historic character of Enosburg Falls through maintaining characteristic street width, building style and placement, density, pedestrian access and signage, or adaptive reuse of existing historic structures;
  - 3) Protecting prime and good agricultural soils and/or maintaining agricultural lands in productive use;
  - 4) Preservation of forested areas;
  - 5) Providing recreation land for use of residents within the project
  - 6) Providing recreation land for public use;
  - 7) Provide condominium or clustered housing options for older residents
  - 8) Energy efficiency in siting of buildings, use of landscaping and screening;
  - 9) Overall project design excellence;
  - 10) Providing perpetually affordable housing units.

## **ARTICLE 7. SUBDIVISION REVIEW**

### **SECTION 7.1 APPLICABILITY**

- A) The subdivision of land requires subdivision approval from the Development Review Board in accordance with this Article. The subdivision of land shall include any land, vacant or improved, which is divided or proposed to be divided into two (2) or more lots, parcels, tracts, sites, plots, units or interests for the purpose of conveyance, transfer, offer for sale, lease or development.

### **SECTION 7.2 SUBDIVISION REVIEW PROCEDURE.**

- A) Subdivisions are classified as major or minor to streamline the review processes for smaller subdivisions.
- 1) A minor subdivision shall meet the following criteria:
    - a) No public or private street is constructed or is required to be widened;
    - b) No other completion of public improvements or guarantee thereof is required other than individual on-lot stormwater management systems;
    - c) No community or individual sewage disposal or water supply systems will be constructed on the lots;
    - d) No earthmoving activities will take place except those incidental to construction of a single-family dwelling on each lot; and
    - e) No more than four (4) new lots are created.
  - 2) Major subdivisions include all subdivision applications that do not meet the criteria for a minor subdivision outlined above as determined by the Zoning Administrator or Development Review Board or that include any use other than single-family residential dwelling.
  - 3)
- B) Applications for the subdivision of land shall undergo subdivision review in accordance with the procedure outlined in Table 7.1.
- C) Applications for Boundary Line Adjustments may receive administrative approval by the Zoning Administrator and proceed directly to a public hearing before the Development Review Board for final plat approval in accordance with Section 9.1 (J). In order to approve the Boundary Line Adjustment, the Zoning Administrator must conclude that the application:
- 1) does not create any additional lots, and
  - 2) does not make conforming lots non-conforming, and
  - 3) does not increase the nonconformance of any existing lot or use.

Any Boundary line adjustment not meeting all three criteria must be reviewed as a minor or major subdivision.

<b>Table 7.1</b>	<b>Subdivision Review at a Glance</b>
<b>1. Pre-application meeting (Optional).</b>	Applicant meets with Zoning Administrator and/or Development Review Board to discuss objectives and preliminary plans for the subdivision. (See Section 7.4(A))
<b>2. Sketch Plan Review (Required for all subdivisions).</b>	Applicant submits sketch plan review application; applicant attends sketch plan review meeting with the zoning administrator or Development Review Board (the zoning administrator may require a site inspection); if approved, the Zoning Administrator or Development Review Board classifies the subdivision as minor or major and instructs the applicant on the requirements for subsequent review. (See Section 7.4(B))
<b>3. Preliminary Plan Review (Required for all major subdivisions and may be required for minor subdivisions).</b>	Applicant submits preliminary plan review application; applicant attends preliminary plan review public hearing; the DRB issues decision on preliminary plan. (See Section 7.4(C))
<b>4. Final Plan Review (Required for all subdivisions).</b>	Applicant submits final plan review application, which shall be based on an approved preliminary plan if applicable; applicant attends final plan public hearing; the DRB issues a decision on the final plan and signs the final plat. (See Section 7.4(D))
<b>5. Recording Final Plat (Required for all subdivisions).</b>	The applicant shall file copies of the final approved plat for recording in the Village's Land Records. (See Section 7.5)

**SECTION 7.3 SUBDIVISION APPLICATION REQUIREMENTS**

A) Subdivision applications shall be submitted to the Zoning Administrator and contain information as required in Table 7.2 below.

<b>Table 7.2 Subdivision Application Requirements</b>
<b>Application Information (Required for all Subdivision Applications)</b>
Name and mailing address of property owner(s) as listed on the title/deed and the applicant (if not the owner) and the applicants interest in the property (lessee, option holder, owner's agent). Attach a copy of the lease/option, etc. if applicable.
The 911 address, parcel id, and the book and page number of the title/deed for the property under application, and the date the property was acquired.
Names and mailing addresses of all adjoining property owners.
Written description of the proposed development plans, including number and size of lots and general timing of development.

**Table 7.2 Subdivision Application Requirements**

**Plan/Plat Mapping Requirements (Sketch Plan Review)**

Five copies of a sketch plan, drawn on paper at an appropriate scale, to accurately depict:

- Scale, date, north arrow, legend;
- Project boundaries and property lines;
- Existing and proposed lot lines, dimensions;
- Adjoining land uses, roads and drainage;
- Zoning district designations and boundaries; and
- A general indication of the location of natural and physical features located on the site, including buildings; roads, driveways and parking areas; fences and walls; watercourses; wetlands; areas of slope in excess of 25%; and a general indication of land cover, including forested areas and land in agricultural production.

**Table 7.2 Subdivision Application Requirements**

**Plan/Plat Mapping Requirements (Preliminary Plan Review)**

One original printed on paper and five (5) 11 x 17 reductions of one or more subdivision plan maps, as appropriate, to accurately depict the following information:

- Preparer information, certifications;
- Scale (Not less than 1' = 200''), date, north arrow, legend;
- A location or focus map of the proposed subdivision within the context of the entire Village;
- Project boundaries and property lines;
- Existing and proposed lot lines, dimensions;
- Adjoining land uses, roads, and drainage (within 1,000 feet of the periphery of the project parcel);
- Zoning district designations and boundaries;
- An indication of the location of natural and physical features located on the site, including buildings and other structures; roads (including class 4 roads, logging or farm roads, and trails), driveways, sidewalks, and parking areas; fences and walls; watercourses; wetlands; 100 year floodplain; ditches, drains, and natural drainage swales; areas of slope in excess of 15% and 25%; contour lines (from U.S.G.S. Maps); ridgelines; prime and statewide important agricultural soils; soil data relating to its suitability for construction, infiltration, and septic suitability; historically significant sites or structures on the parcel; and a general indication of land cover, including forested areas and land in agricultural production;
- Approximate location of all existing and proposed protected land or land otherwise restricted in use (i.e. in a conservation easement);
- An indication of existing and proposed utility easements and rights of way;



**Table 7.2 Subdivision Application Requirements**

**Plan/Plat Mapping Requirements (Preliminary Plan Review Continued)**

- Approximate layout and design of proposed stormwater management systems (i.e. ponds, outfalls, culverts, swales, low-impact development features) and/or connections to existing municipal stormwater infrastructure; location and design of municipal sewer connections or onsite wastewater management systems; and location and design of municipal water supply connection or onsite water supply system, as applicable.
- An indication of proposed roads, paths, common or shared parking areas, loading and unloading areas, sidewalks, and associated rights-of-way or easements;
- Approximate location of proposed garbage storage and snow storage areas;
- Approximate location, height, and lumens of outdoor lighting;
- Approximate location of building envelopes;
- Approximate landscaping plan, including location of proposed shade trees and existing vegetation to be retained.
- Approximate location and dimensions of proposed playgrounds, public buildings, public areas and parcels of land proposed to be dedicated or reserved for public use.

**Table 7.2 Subdivision Application Requirements**

**Plan/Plat Mapping Requirements (Final Plan Review)**

One original printed on mylar and five (5) 11 x 17 reductions of one or more subdivision plan maps, as appropriate, to accurately depict the following information:

- All information required for Preliminary Plan Review above in final form (not an approximate or a general indication as appropriate in preliminary plan review, but a final and complete depiction);
- The location, alignment, width and tentative names of all proposed streets and street rights-of-way, including all street extensions or spurs that are reasonably necessary to provide adequate street connections and facilities to adjoining development or undeveloped areas. Typical street cross-section drawing(s) for all proposed streets shall be shown, including details relating to thickness, crowning and construction materials.

**Table 7.2 Subdivision Application Requirements**

**Additional Plans, Studies and Reports**

The following may be required by the DRB:

- Phasing schedule
- Sewer and Water Feasibility Report
- Groundwater Protection and Replenishment Study
- Erosion and Sedimentation Control Plan
- Traffic Impact Study (current and proposed traffic volumes, capacities, levels of service, proposed improvements)
- Homeowner's Association Documents
- Fiscal impact analysis (analysis of fiscal costs and benefits to the town)
- Historic or archeological assessment
- Environmental impact assessment (analysis of potential environmental impacts, proposed mitigation measures)
- Open space management plan
- Site reclamation plan (for subdivisions involving extraction)

**SECTION 7.4 SUBDIVISION REVIEW PROCEDURE**

**A) Pre-Application Meeting.** An optional pre-application meeting is encouraged between the applicant, the site designer (where applicable), and the Zoning Administrator or the Development Review Board to introduce the applicant to the Village's Land Use and Development Regulations and procedures, to discuss the applicant's objectives, and to schedule any site inspections, meetings, and/or plan submissions. The applicant may complete the pre-application meeting by making an appointment with the Zoning Administrator, stopping by the Zoning Administrator's Office during office hours, or attending a regularly scheduled Development Review Board meeting. When the pre-application meeting is conducted with the Development Review Board at a regularly scheduled meeting, sketch plan review may be waived if the Development Review Board determines that sufficient information has been presented. In such case, the applicant may go directly to Preliminary or Final Plan review, as required by the Development Review Board.

**B) Sketch Plan Review.** Sketch Plan Review is required for all subdivisions, unless waived by the Development Review Board in the pre-application meeting. A Sketch Plan Application shall serve as a basis for informal discussion regarding the design of a proposed subdivision or land development. Submission of a Sketch Plan does not constitute formal filing of a plan with the Village, and shall not commence the statutory review period as required by the Act. Sketch Plan review is meant to guide the subdivider in preparing a complete application for Development Review Board review.

**1) Application Requirements.** A Sketch Plan application shall include the information in Table 7.2 and shall be submitted to the Zoning Administrator.

- 2) **Review Procedure.** Within 30 days of receipt of a complete Sketch Plan Application, the Zoning Administrator shall have an informal meeting with the applicant and site designer (if applicable) to review the Sketch Plan. For larger projects that have potential for substantial impact in the Village, the Zoning Administrator may schedule a Sketch Plan Review meeting with the Development Review Board. The Zoning Administrator or the Development Review Board may reasonably continue the Sketch Plan review to subsequent meetings in order to visit the site, consult with appropriate agencies, organizations and officials, and make recommendations to the subdivider regarding required improvements or changes needed for conformance with these Land Use and Development Regulations. Approval of a sketch plan by the Zoning Administrator or the Development Review Board shall not constitute approval of the subdivision plat and is merely authorization to proceed to the next step in the subdivision review process.
- 3) **Plan Classification as Minor or Major Subdivision.** At or within 30 days of the close of Sketch Plan review, the Zoning Administrator or the Development Review Board will classify the project as a minor or major subdivision as defined in Section 7.2(A), and specify what the submission requirements for the subsequent review will be. In some cases, the Zoning Administrator or Development Review Board may allow minor subdivisions to skip Preliminary Plan Review and proceed directly to Final Plan. Major subdivisions must proceed directly to Preliminary Plan Review.

**C) Preliminary Plan Review.** Preliminary Plan Review is required for all major subdivisions and may be required by the Zoning Administrator or Development Review Board for some minor subdivisions that have the potential for substantial impacts. The Preliminary Plan is a preliminarily-engineered scale drawing in which layout ideas are illustrated in more than the rough, diagrammatic manner appropriate for Sketch Plans, but before heavy engineering costs are incurred in preparing designs, such as detailed alignments and profiles for streets and detailed calculations for stormwater management.

- 1) **Application Requirements.** A Preliminary Plan Review application shall include the information in Table 7.2 and shall be submitted to the Zoning Administrator within 6 months from the close of the Sketch Plan Review meeting (or Pre-Application Meeting if Sketch Plan Review was waived). If the Preliminary Plan application is not submitted within six (6) months of the Sketch Plan Review meeting (or the Pre-Application meeting if Sketch Plan was waived), a new Sketch Plan application must be submitted for review.
- 2) **Review Procedure.** When the Zoning Administrator has determined that the Preliminary Plan Review application is complete, he/she shall schedule a Preliminary Plan Review public hearing at the next available Development Review Board meeting in accordance with the public notice and public meeting requirements in 9.1(D)(2) and 9.1(E).
  - a) The applicant, or his/her agent, should attend the meeting at which the Preliminary Plan is being considered. If the applicant or his/her agent is not present at such a meeting, the Development Review Board may act on the application or table it to a subsequent meeting. However, it shall not be tabled for longer than 60 days at which time the application can be denied for lack of information if the Development Review Board determines there is a lack of adequate information with which to make a decision.

- b) The applicant shall not submit revised plans or revisions to other application materials between the time the submission is accepted as complete and the meeting at which the Preliminary Plan is being considered, unless specifically requested by the Zoning Administrator to do so. If the applicant, of his/her own volition, wishes to revise the submitted plans prior to review by the Development Review Board, the pending application must be withdrawn via a written request, a complete package of application materials must be resubmitted and the Development Review Board review process shall start anew.
  - 3) **Review Criteria.** In completing Preliminary Plan review, the Development Review Board shall determine that the proposed subdivision conforms to all of the standards and conditions contained in Article 8, Planning and Design Standards, conforms to the goals and policies of the Enosburg Falls Village Plan, and conforms to any other applicable local ordinances or bylaws. In addition, the Development Review Board may impose other modifications as necessary, including specific changes for subsequent submissions, additional studies, or supporting documentation to protect the public safety and welfare and to ensure compliance with the Village Plan, these regulations, and other bylaws and ordinances in effect.
  - 4) **Action on Preliminary Plan.** Within 45 days of the date the public hearing is closed, the Development Review Board shall send the applicant a copy of the minutes from the Preliminary Plan Review meeting, which shall include approval, approval with conditions, or denial of the application for Preliminary Plan Approval. Approval of the Preliminary Plan shall not constitute approval of the Final Plan.
- D) Final Plan Review.** Final Plan Review is required for all subdivisions and shall constitute approval or denial of the final subdivision plan.
- 1) **Application Requirements.** A Final Plan Review application shall include the information in Table 7.2 and shall be submitted to the Zoning Administrator within 1 year from the close of the Preliminary Plan Review public hearing, Sketch Plan Review meeting, or Pre-Application meeting (if Sketch Plan Review was waived). If the Final Plan application is not submitted within this designated timeframe, the applicant must repeat either Preliminary Plan Review, if it was required, or Sketch Plan Review. If the Zoning Administrator or the Development Review Board determines that the application is substantially changed from the previously approved layout, then the Zoning Administrator or the Development Review Board may require the applicant to submit a new Sketch Plan or Preliminary Plan for review.
  - 2) **Review Procedure.** When the Zoning Administrator has determined that the Final Plan application is complete, he/she shall schedule a Final Plan review public hearing at the next available Development Review Board meeting in accordance with the public notice and public meeting requirements in 9.1(D)(1) and 9.1(E).
    - a) The applicant, or his/her agent, should attend the public hearing at which the Final Plan is being considered. If the applicant or his/her agent is not present at such a meeting, the Development Review Board may act on the application or table it to a subsequent meeting. However, it shall not be tabled for longer than 60 days at which time the application can be denied for lack of information if the Development Review Board determines there is a lack of adequate information with which to make decision.

- b) The applicant shall not submit revised plans or revisions to other application materials between the time the submission is accepted as complete and the meeting at which the Final Plan is being considered, unless specifically requested by the Administrator to do so. If the applicant, of his/her own volition, wishes to revise the submitted plans prior to review by the Development Review Board, the pending application must be withdrawn via a written request, a complete package of application materials must be resubmitted and the Development Review Board review process shall start over again.
- 3) **Review Criteria.** In completing Final Plan review, the Development Review Board shall determine that the proposed subdivision conforms to all of the standards and conditions contained in Article 8, Planning and Design Standards, conforms to the goals and policies of the Enosburg Falls Village Plan, and conforms to any other applicable local ordinances or bylaws. In addition, the Development Review Board may impose other conditions of approval as necessary to protect the public safety and welfare and to ensure compliance with the Town Plan, these regulations, and other bylaws and ordinances in effect.
- 4) **Phasing.** The Development Review Board may permit submission of the final plan in phases, each covering a reasonable portion of the entire proposed development as shown on the approved Preliminary Plan; provided that the first final plan phase shall be submitted within one (1) year after approval of the Preliminary Plan. Each subsequent phase shall be submitted within one (1) year of approval of the previous phase, provided all phases have been submitted within three (3) years after the date of Preliminary Plan approval.
- 5) **Required Improvements.** All streets, drainage, water, sewer, and other required improvements shall be provided and installed at the sole expense of the applicant as a condition of plan approval. The Development Review Board may require a performance bond to secure completion of such improvements and their maintenance for a period no longer than three years, together with a certificate from the Village Board of Trustees that it is satisfied either with the bonding or surety company, or with the security furnished by the applicant. The Development Review Board shall determine the amount and terms of the bond, but in no case shall the terms run longer than three years. The bond shall be released only when the conditions have been satisfied in the judgment of the Development Review Board. In the event any required improvements have not been installed or maintained in accordance with the terms of the bond, such bond shall be forfeited to the Village to install and maintain such improvements as are covered by the conditions of the bond.
- 6) **Village Acceptance of Public Facilities.** Final Plan approval by the Development Review Board shall not be deemed evidence of any acceptance by the Village of any proposed street, easement, utilities, open space, or other required public improvements shown on the final plan. All streets shown on the plan shall conform to requirements of the Village's Street Dedication Ordinance, and the applicant shall apply for dedication, in accordance with the Ordinance, prior to submission of the final plan. Approval of the final plan shall be conditioned upon acceptance of the streets by the Village Trustees. All other improvements that are intended to be transferred or dedicated to the Village shall conform to such standards as the Village Trustees may direct after receipt of a written request for dedication by the applicant. Approval of the plan shall be conditioned

upon acceptance of the improvements by the Village Trustees. The applicant shall be required to maintain all facilities and provide for snow removal on streets and sidewalks until acceptance of said facilities by the Village Board of Trustees, or until a homeowners' or tenants' association or other approved organization is established and assumes the maintenance responsibilities.

- a) As-built drawings showing the location of all required facilities shall be certified by a registered professional engineer certified by the State of Vermont or registered land surveyor and filed with the Village Board of Trustees prior to the acceptance of the facilities by the Village. Until as-built drawings are filed, the balance of the performance guarantee or other surety guaranteeing the completion of such facilities shall not be released.
  - b) Upon satisfactory completion of facilities, as certified by the Village, the Development Review Board shall recommend to the Village Board of Trustees that all security covering construction of facilities be released; sufficient guarantee in the form of a Letter of Credit or other security shall be retained, however, to guarantee maintenance of the streets and other public facilities, as provided for in sub-section (5) above.
- 7) **Action on Final Plan.** Within 45 days of the date the Final Plan Review public hearing is closed, the Development Review Board shall issue a written decision in conformance with the requirements of Section 9.1(F) that approves, approves with conditions, or denies an application for Final Plan approval. The Development Review Board may attach such reasonable conditions to any approval as may be necessary to protect the public health, safety and welfare, to implement the purposes of the Act or these regulations, and/or the Village Plan.
- 8) **Submission of Final Plat.** If approved or approved with conditions by the Development Review Board the applicant must submit a Final Plat for recording in accordance with Section 9.1 (J).

#### **SECTION 7.5 REVISIONS TO AN APPROVED PLAT**

- A) No changes, modifications, or other revisions that alter the plat or conditions attached to an approved subdivision plan shall be made unless the proposed revisions are first resubmitted to the Development Review Board for final subdivision review and the Board approves such revisions after public hearing. In the event that such changes are recorded without complying with this requirement, the revisions shall be considered in violation of subdivision approval.

## **ARTICLE 8. PLANNING AND DESIGN STANDARDS**

### **SECTION 8.1 APPLICABILITY**

- A) The Development Review Board shall review all site plan review applications, subdivisions, and planned unit developments for conformance with the planning and design standards in this Article.

### **SECTION 8.2 GENERAL SUBDIVISION STANDARDS**

- A) **Character of the Land.** The Development Review Board shall determine that any land proposed for subdivision is of such a character appropriate for the intended purpose and density of use, as proposed in the subdivision application, without inflicting undue adverse impact on public health and safety, the environment, neighboring properties, or the character of the surrounding area and community as described in Section 2.3 and the Village Plan.
- B) **Compatibility with Existing Settlement Patterns.** Subdivisions shall be designed and laid out to achieve the purpose and desired settlement pattern of the district in which they are located. To the extent feasible, new subdivisions shall:
- 1) maintain and extend desired settlement patterns, including lot area and configuration, road layout, and building locations for the neighborhood or district in which they are located; and
  - 2) maintain contiguous tracts of open land; and connect to, and extend where appropriate, existing road, path, utility and open space corridors.
- C) **Conformance with the Village Plan and Other Regulations.** Subdivision proposals shall conform to the goals and policies of the Enosburg Falls Village Plan, other provisions of these regulations, the capital budget and program, and all other bylaws, ordinances and regulations of the Village of Enosburg Falls currently in effect.
- D) **Density and Lot Layout.** Density, lot size, and layout shall conform to zoning district dimensional standards in Article 2, unless modified or waived by the Development Review Board under planned unit development provisions in accordance with Article 6. In determining density, lot size, and layout, consideration shall be given to topography, soils and drainage conditions .
- 1) No new lot created shall have an area or frontage less than the minimum required for the district in which it is located (see Table 2.1). Any public right-of-way or private street shall create lot frontage (corner lots, therefore, have frontage on two roadways).
  - 2) Dogleg lots, bowling alley lots, and lots otherwise contorted in order to get around these bylaws are not permitted. Lot lines should be designed to follow existing land characteristics such as land contours, fence lines, roads, and paths, as well as to protect significant natural resources or to avoid excessively steep slopes, water courses, or wetlands, and where no other form of subdivision or PUD is possible.
  - 3) No new lot shall be created unless it has an approved access on a public road, private street, or permanent easement (as approved by the Development Review Board in Section 4.2).

- 4) Lower densities of development may be required by the Board based on site limitations.
- 5) Lot layout shall be appropriate for the intended use, and reflect the purpose of the district in which lots are created.
- 6) Side lot lines shall generally be at right angles to straight roads, or radial to curved roads. When such an arrangement is not possible, the angle between the side lot line and the road line shall be shown on the plat.

**E) Establishment of Building Envelopes.** The Development Review Board may require the designation of building envelopes to limit the location of structures and associated site development to one or more portions of a lot. Building envelopes shall be designed to identify and limit the location of principal and accessory structures, parking areas, and associated site development (excluding road and utility rights-of-way or easements) on one or more portions of a lot. The size and shape of the building envelope shall be, at a minimum, determined by district setback requirements, unless otherwise required by the Development Review Board or these regulations. Building envelopes shall not include floodplain, wetlands, streams or drainage ways, or other non-buildable land. Dimensions of lots and building envelopes shall be large enough to accommodate the purpose for which they are intended to be used. The Development Review Board may also require the identification of specific building footprints if, in their judgment, such information is required to meet the standards set forth in these regulations.

**F) Energy Conservation.** To conserve energy, all subdivisions shall use the least amount of area for roadways and the least length of sewer, water and utility lines within environmentally and economically sound limits. Clustered development (i.e. Planned Unit Developments) shall be considered wherever feasible and desirable. The siting of buildings should maximize solar access where feasible, and landscaping should effectively be used to provide wind barriers and reduce heat loss or gain,

**G) Monuments & Lot Corner Markers.** Permanent monuments and corner markers shall be placed on all subdivided parcels in conformance with the Rules of the Board of Land Surveyors, Part 5, Standards for the Practice of Land Surveying.

### **SECTION 8.3 SITE PRESERVATION AND EROSION CONTROL (GRADING, EXCAVATION, AND DEVELOPMENT ON STEEP SLOPES)**

**A) Existing Features.** Site amenities including trees, surface waters, historic sites, farmland, ridgelines, unique geologic features, archaeological resources or any other unusual features, which the Development Review Board determines are assets to the site and/or the community shall be preserved. Preservation techniques may include planned unit developments, careful layout of lots and roads, limitations on size and location of building envelopes, and requiring fixed percentages of developable open space in rural districts.

**B) Vegetation and Natural Cover.** Land shall be subdivided and developed to minimize grading, cut, and fill, and to the degree possible, to retain the natural contours. Wherever possible, the natural cover shall be conserved and stormwater runoff shall be minimized; low impact development techniques are encouraged. Vegetation such as trees and shrubs shall be



retained or may be reasonably required by the Development Review Board for screening and aesthetic purposes. The Development Review Board may require that suitable hardwood shade trees be planted along the streets where trees do not exist at intervals of at least 40 feet.

**C) Tree Removal.** In all existing vegetative areas, tree removal shall be limited to the following:

- 1) Within areas designated for a building envelope and for an access drive, tree removal may be permitted as needed to accommodate the purposes of the lot. Mature trees that can be saved should be welled and protected against changes in grade.
- 2) Outside the area designated for a building envelope, the Development Review Board may limit tree removal if it determines that such removal would cause soil erosion or would adversely affect ridgelines or other scenic views, screening for abutting properties, or significant habitat sites. When tree removal is permitted to create view corridors, it should be accomplished with narrow view openings between trees and beneath tree canopies rather than with large openings. Selective cutting of small trees and the lower branches of large trees is preferred over the removal of mature trees.
- 3) Tree removal, either within or outside the area designated for a building envelope, shall not be permitted where the Development Review Board determines that it would adversely affect the scenic qualities of a ridgeline.

**D) Swales, Springs, Streams, Drainage ways and Other Lowland Areas.** Swales, springs and other lowland areas are resources that warrant restrictive land use controls because of flooding hazards to human life and property, their ground water recharge functions, their importance to water quality and the health of aquatic communities, and their wildlife habitats.

- 1) The following activities shall be minimized:
  - a) Disturbance to streams and drainage swales.
  - b) Disturbance to year-round wetlands, areas with seasonally high water tables, and areas of surface water concentration.
  - c) Because of their extreme limitations, stream valleys, swales and other lowland areas warrant designation as open space. They may also require adjoining buffer lands to be included in the open space, to be determined by an analysis of the protection requirements of such areas on a case-by-case basis. In certain instances, seasonal high water table soils may be excluded from the open space where it can be demonstrated that they are suitable for low density residential uses and conventional on-site sewage systems.

**E) Erosion and Sediment Control.** Control measures shall follow the guidelines of the Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites.

**F) Excavation and Grading.** All excavation, filling and grading required for construction shall be as specified by the Village. The entire area of work shall be brought to the required elevations by excavation or filling. A minimum of four (4) inches of topsoil shall be provided to cover finished grades and slopes. All roads shall be graded from property line to property line to approved grades and cross sections.

- G) Fill.** No stumps, wood, roots or other fibrous materials shall be used as fill except in an area stipulated for no development. A stump dump may be permitted only if the Development Review Board determines that its location will cause no adverse environmental effects. The Development Review Board may require the applicant to submit evidence of boring and/or other soil investigations to determine the depth, composition, and stability of the sub-grade within road sections and where homes are to be located.
- H) Slopes.** Moderately sloping lands (15 to 25 percent) and steeply sloping lands (over 25 percent) are prone to severe erosion if disturbed. Erosion and the resulting overland flow of soil sediments into streams, ponds and public roads, are detrimental to water quality and aquatic life, and a potential hazard to public safety.
- 1) Approval of development involving the excavation, filling and/or regrading of land characterized by a slope of 15% or greater shall be contingent upon the submission of an adequate erosion and sedimentation control plan and conformance with the standards listed below. Erosion and sedimentation control plans shall be prepared by a qualified professional, and shall provide detailed information regarding proposed erosion and sedimentation control measures to be employed during all stages of the development (including site preparation, construction and postconstruction). Where such grading, filling, etc. is conducted in association with forest management activities, an erosion control plan may be prepared by a professional forester. The Board may waive compliance with this provision in situations involving minimal disturbance of the site and/or limited areas of steep slope in which the development clearly poses a negligible risk to water quality, public facilities and roads, and nearby properties. Development involving the excavation, filling and/or regrading of land characterized by a slope of 15% or greater shall also comply with the following standards:
    - a) All grading and earthmoving on slopes exceeding 15 percent shall be minimized.
    - b) No site disturbance shall be allowed on slopes exceeding 25 percent except grading for a portion of a driveway accessing a single family dwelling when it can be demonstrated that no other routing that avoids slopes exceeding 25 percent is feasible.
    - c) On slopes of 15 to 25 percent, the only permitted grading beyond the terms described above shall be in conjunction with the siting of a single family dwelling and its access driveway.
    - d) Grading or earthmoving on all sloping lands of 15 percent or greater shall not result in earth cuts or fill whose highest vertical dimension exceeds six feet, except where in the judgment of the Development Review Board no reasonable alternatives exist for construction of roads, drainage structures and other public improvements, in which case such vertical dimensions shall not exceed 12 feet. Roads and driveways shall follow the line of existing topography to minimize the required cut and fill. Finished slopes of all cuts and fills shall be as required to minimize disturbance of natural grades.
  - 2) Development shall not take place on slope gradients of 25% or greater, except for limited site improvements necessary to facilitate development on contiguous land with a slope of less than 25% gradient may be permitted by the Development Review Board, subject to the requirements of Subsection (1).

## SECTION 8.4 STREETS AND ROADS

**A) Required Street Improvements.** Design of streets (including any driveway serving or intending to serve more than two single family units) shall be constructed logically in relation to the topography so as to provide safe intersections, grades and alignments, and adequate drainage and shall conform to the Development Road Standards for the Village of Enosburg Falls, any other road ordinances in effect at the time, and shall conform to the dimensional and geometric design standards for local roads and streets contained within the *Vermont State Standards for the Design of Transportation Construction, Reconstruction, and Rehabilitation on Freeways, Roads, and Streets*, dated October 1997, or as most recently amended, and the Vermont Agency of Transportation's Standard A-76. As a condition of approval, applicants shall be required to provide the following street improvements, as applicable:

- 1) Construction of all new public and private streets shall coordinate with existing and future development adjacent to the proposed development and/or subdivision.
- 2) Construction of all new public and private streets shall avoid long, dead-end roads, but discourage or control through traffic by utilizing traffic calming techniques as recommended by the VT Agency of Transportation. The maximum length of a cul-de-sac or dead-end street shall be 1,200 feet. An exception to that requirement may be made for temporary dead-end streets. Dead-end streets or cul-de-sacs shall terminate in a turn-around with a radius of thirty-five (35) feet and a minimum paved area of twenty (20) feet in width, or a "T" or "Y" configuration. A snow removal area shall be made available on the plan. Provisions shall be made for temporary turn-a rounds for temporary dead-end streets. The subdivider shall demonstrate that dead-end streets or cul-de-sacs are the best use of the land, and there is no possibility of surrounding land that would become undeveloped due to dead-end streets or cul-de-sacs.
- 3) Construction of streets outside the subdivision may be required to establish a connection between the subdivision and the existing street system, with the design and construction standards for such connections to be determined by the Village Board of Trustees based on what part they play in the Village's overall street system.
- 4) Where existing streets provide access between the subdivision and the state highway system, and the existing streets do not meet Village and State of Vermont standards for the traffic volumes which would occur once the subdivision is built, upgrading of existing streets to the Village standards will be required for the projected traffic volume.
- 5) All improvements necessary for street drainage, including but not limited to culverts, drainage pans, inlets, curbs and gutters shall be required.
- 6) Traffic control devices including signs and signals, street name signs, street lighting, striping and pedestrian crosswalks shall be in conformance with the criteria contained in the "The Manual of Uniform Traffic Control Devices" as adopted by the State of Vermont.
- 7) Street medians and median landscaping may be required.

**B) Sidewalks.** Sidewalks that connect to the existing Village sidewalk network shall be required for all subdivisions in the Central Business District and the High Density Residential District. Sidewalks shall be required in the Commercial District and Low Density Residential District for major subdivisions. In the Commercial District and the Low Density Residential District, where the Development Review Board determines that

pedestrian connection to the existing Village sidewalk network is feasible, such connection shall be made. Such pedestrian connection shall consist of a sidewalk if feasible.

- C) **Curbs.** In general, curbs and gutters shall be provided where sidewalks are provided within road rights-of-way. Curbs and gutters normally are not required along rural residential streets. Curbs and gutters may otherwise be omitted only upon recommendation of the Development Review Board and upon demonstration that adequate drainage for streets and sidewalks will be provided. Curbs, gutters, and storm drainage grates shall be designed to accommodate safe bicycle travel. Excessive curb cuts shall be minimized and where possible curb cuts and driveways shall be shared with adjoining parcels.

## **SECTION 8.5 WATER AND SEWERAGE**

- A) **Applicability.** Wastewater disposal and water supply systems are subject to the provisions of Section 4.14 and shall comply with the Wastewater and Potable Water Supply Rules adopted by the Vermont Department of Environmental Conservation (dated September 29, 2007 or as revised from time to time by the DEC) and as applicable, the Enosburg Falls Village Sewer Ordinance and the Enosburg Falls Village Water System Ordinance.

- B) **Extension of Municipal Water and Sewer Mains and Laterals.** The Development Review Board may require the extension of the public municipal water and sewer mains to and within a proposed subdivision, without cost to the Village, where existing mains are, in the judgment of the Development Review Board, within a reasonable distance of the proposed subdivision.

- 1) The Development Review Board may require that water and sewer mains be placed either in the street right-of-way between the paved roadway and street line or placed horizontally underneath the roadway. Where placement in the street right-of-way is impractical, perpetual, unobstructed easements twenty (20) feet in width with satisfactory access to the street shall be provided.
- 2) The subdivider shall install laterals from all water and sewer mains to the street property line of each building lot. Any residential buildings constructed in the subdivision shall have house connections installed, and shall have such connections extended inside of the building. All such water and sewage disposal system installations shall be at the expense of the subdivider.
- 3) Water and sewer mains must be laid below the depth of frost penetration of the area. Sewer mains shall be set lower than water mains.

- C) **Fire Protection Facilities.** Adequate water storage facilities for fire protection within subdivisions shall be provided to the satisfaction of the Development Review Board and the Fire Chief. Where practical, fire hydrants shall be installed by the applicant.

## **SECTION 8.6 STORMWATER.**

- A) Stormwater drainage, infiltration, retention and treatment facilities, including culverts and ditches, shall be designed to accommodate potential stormwater runoff from the entire upstream drainage area, based on conditions of total potential development. The Development Review

Board will require applicants to maintain post-development peak storm flows at predevelopment levels. Where a proposed development is traversed by a watercourse or drainage way, there shall be provided a storm water drainage easement of such width as to encompass the 25-year flood area of such watercourse, which easement shall be indicated on the final plan or site plan application. All stormwater management facilities shall be designed in accordance with best management practices (BMPs) for stormwater management as most recently amended by the Vermont Agency of Natural Resources. Low-impact development techniques are encouraged. The preparation and implementation of a stormwater management plan, prepared by a professional engineer licensed by the State of Vermont, may be required by the Development Review Board. Off-site easements and/or management facilities may also be required by the Development Review Board as needed to accommodate stormwater runoff on adjoining properties or downstream from the proposed development.

## **SECTION 8.7 UTILITIES AND STREET LIGHTING**

### **A) Utility Lines**

- 1) Gas, electric, telephone, outdoor lighting and cable television distribution systems may be required to be underground if the technology and terrain make it economically feasible. The applicant shall coordinate subdivision and/or development design with the utility companies to ensure that adequate and suitable areas for underground installations are provided, both for the proposed subdivision and/or development and for adjacent areas.
- 2) Where practicable, utility lines that run parallel to public streets shall share the public right-of-way rather than require additional easements on private property.

### **B) Street Lighting**

- 1) Outdoor lighting design shall minimize impacts to the night sky. Cut-off luminaries as defined by the Illuminating Engineering Society of North America (IESNA) are recommended. At certain locations, the Development Review Board shall require side or back shields to minimize light directed to the side or rear of the fixtures. Poles supporting streetlights shall be located so as not to obstruct vision or create a vehicular safety hazard.
- 2) Illumination levels generated by outdoor lighting shall be sufficient for the purpose intended. Excessive lighting and glare-producing conditions shall be avoided.
- 3) A uniform level of lighting is required for outdoor applications. Excessively bright areas in contrast with very dark areas shall be avoided in lighting installations.
- 4) Streetlights shall not be provided except at locations where the Development Review Board determines that a light is required to illuminate a safety hazard. When required, streetlights shall be mounted at heights of no more than 20 (twenty) feet and shall be of a design other than highway oriented “cobra head” fixtures.
- 5) All exterior lighting shall be subject to an overall lighting plan.
- 6) Low-pressure sodium lighting is prohibited.

## **SECTION 8.8 AGRICULTURAL LAND**

- A) In order to prevent harm to the scenic and agricultural land resources in the Village, while preserving the rights of the property owner to create the number of building sites allowable within the zone with adequate sewage disposal, the subdivision of lots and the sighting of non-agricultural buildings in the Conservation and Agriculture/Rural Residential zoning districts shall be subject to the following:
- 1) Lots shall be located and sized so as to preserve prime agricultural farmlands to the maximum extent possible; and
  - 2) Buildings and other structures shall not be sited in the middle of open fields, but shall be located in wooded areas, or at the edge of fields or tree lines so as to preserve agricultural utilization and scenic views and minimize the loss of open space to the maximum extent possible.

## **SECTION 8.9 GROUNDWATER RESOURCES**

- A) This section is intended to ensure that the Village's limited groundwater resources are protected for purposes of providing water supplies for its residents and businesses, and to protect the base flow of the Village's surface waters. These regulations shall be applied in conjunction with those provided for in other sections of this ordinance, dealing with groundwater conservation and replenishment.
- B) Subdivisions and land development shall be designed to cause the least practicable disturbance to natural infiltration and percolation of precipitation to the groundwater table. This shall be accomplished through careful planning of vegetation and land disturbance activities, and the placement of streets, buildings and other impervious surfaces in locations that do not have the greatest permeability where precipitation is most likely to infiltrate and recharge the groundwater.

## **SECTION 8.10 SIGNIFICANT NATURAL AREAS AND FEATURES**

- A) Natural areas containing rare or endangered plants and animals, as well as other features of natural significance exist throughout the Village. Subdivision and site plan applicants shall take all reasonable measures to protect significant natural areas and features either identified in the Village Plan or as identified in the application by incorporating them into proposed common areas or avoiding their disturbance in areas proposed for development.

## **SECTION 8.11 HISTORIC STRUCTURES AND SITES**

- A) Subdivision and development plans shall be designed to protect existing historic resources of all classes. The protection of an existing historic resource shall include the conservation of the landscape immediately associated with and significant to that resource, to preserve its historic context. Where, in the opinion of the Development Review Board, a plan will have an impact upon a historic resource, the developer shall mitigate that impact to the satisfaction of the Development Review Board by modifying the design, relocating proposed lot lines,

providing landscape buffers, or other approved means. See also Section 5.2 Adaptive Reuse of Historic Structures.

#### **SECTION 8.12 RURAL ROAD CORRIDORS AND SCENIC VIEWS**

- A) Subdivision and development applications shall attempt to preserve the scenic visual corridors along rural roads by incorporating them into open space areas or otherwise providing for building setbacks and architectural designs to minimize their intrusion. In instances, where such designs fail to satisfactorily protect corridors, applicants will be required to provide naturalistic landscape buffers to minimize their adverse visual impacts. The species specified for such buffers shall be selected on the basis of an inventory of tree and shrub species found in existing hedgerows and along wooded roadside edges in the vicinity of the development proposal.

#### **SECTION 8.13 RECREATIONAL TRAILS**

- A) When a subdivision or land development proposal is traversed by or abuts an existing recreational trail customarily used by pedestrians and/or equestrians, the Development Review Board may require the applicant to make provisions for continued recreational use of the trail.
- 1) The applicant may alter the course of the trail within the tract for which development is proposed under the following conditions:
    - a) The points at which the trail enters and exits the tract remain unchanged.
    - b) The proposed alteration exhibits quality trail design according to generally accepted principles of landscape architecture.
    - c) The proposed alteration does not coincide with a paved road intended for use by motorized vehicles.
- B) An applicant may propose and develop a new trail. When new recreational trails are proposed and intended for public or private use, they shall be protected by a permanent conservation easement on the properties on which they are located. The width of the protected area in which the trail is located should be a minimum of ten feet. The language of the conservation easement shall be to the satisfaction of the Development Review Board.
- C) New recreational trails and improvements to existing recreational trails shall demonstrate adherence to principles of quality trail design and the following standards:
- 1) Trails shall have a vertical clearance of no less than ten (10) feet.
  - 2) Width of the trail surface may vary depending upon type of use to be accommodated, but in no case shall be less than three (3) feet or greater than six (6) feet.
  - 3) No trail shall be designed with the intent to accommodate motorized vehicles.

## **ARTICLE 9. ADMINISTRATION AND ENFORCEMENT**

### **SECTION 9.1 MUNICIPAL ADMINISTRATIVE REQUIREMENTS**

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

**1) Zoning Administrator.** A Zoning Administrator shall be nominated by the Planning Commission and appointed by the Village Trustees for a term of three years. The Zoning Administrator may hold any other office in the municipality other than membership on the Development Review Board. The compensation of the Zoning Administrator shall be fixed under sections 932 and 933 of the Act, and the officer shall be subject to the personnel rules of the municipality adopted under sections 1121 and 1122 of the Act. The Zoning Administrator shall administer the Enosburg Falls Land Use and Development Regulations literally and shall not have the power to permit any land development or subdivision that is not in conformance with these regulations. The Zoning Administrator may be removed for cause at any time by the Village Trustees after consultation with the Planning Commission.

**a) Responsibilities of the Zoning Administrator.** The Zoning Administrator should coordinate a unified effort on behalf of the municipality in administering its development review programs. In doing so, specific duties of the Zoning Administrator include, but are not limited to the following:

- i) Inform any person applying for municipal permits or authorizations that the person should contact the regional permit specialist employed by the agency of natural resources in order to assure timely action on any related state permits; nevertheless, the applicant retains the obligation to identify, apply for, and obtain relevant state permits.
- ii) Approve, deny, or refer applications for zoning permits under Section 9.1(C).
- iii) Issue Certificates of Occupancy under Section 9.2.
- iv) Approve boundary line adjustments prior to DRB review of final plat in accordance with section 7.2C.
- v) As necessary and/or in response to a written complaint, inspect and investigate public or private property at reasonable times in order to determine compliance with these regulations.
- vi) Pursue violations of these regulations through procedures set forth under Section 9.4.
- vii) Maintain a full and exact record, available to the public, of all applications and fees received, permits issued and denied, and violations reported.
- viii) Maintain a record of development in the flood hazard area in accordance with Section 3.6.

**b) Acting Zoning Administrator.** The Planning Commission may nominate and the Village Trustees may appoint an acting zoning administrator who shall have the same duties and responsibilities as the zoning administrator in the Zoning Administrator's absence.

**c) Assistant Zoning Administrator.** The Planning Commission may nominate and the Village Trustees may appoint an assistant zoning administrator to assist the Zoning



Administrator with his/her duties, only with clear policies regarding the authority of the Zoning Administrator in relation to the Assistant Zoning Administrator.

- 2) **Planning Commission.** A Planning Commission, whose number of members shall consist of not less than three (3) nor more than nine (9) members, shall be appointed by the Village Trustees for terms of three (3) years. A majority of the Commissioners shall be residents of the Village of Enosburg Falls. Vacancies shall be filled by the Village Trustees for unexpired terms and upon the expiration of terms. Any member of the Planning Commission may be removed at any time by unanimous vote of the Village Trustees. The Planning Commission shall have the following functions:
- a) Prepare amendments to these regulations and other regulations as permitted by the Act;
  - b) Prepare and update the municipal plan every 5 years, and prepare amendments to the plan as necessary;
  - c) As a statutory party, participate in the review of Act 250 projects.
  - d) Undertake capacity studies and make recommendations on matters of land development, village renewal, transportation, economic and social development, village beautification and design improvements, historic and scenic preservation, the conservation of energy and the development of renewable energy resources, and wetland protection;
  - e) Prepare and present to the Village Trustees recommended building, plumbing, fire, electrical, housing, and related codes and enforcement procedures, and construction specifications for streets and related public improvements;
  - f) Prepare and present to the Village Trustees a recommended capital budget and program for a period of five years, as set forth in section 4440 of the Act, for action by the Village Trustees as set forth in section 4443 of the Act;
  - g) Hold public meetings;
  - h) Require from other departments and agencies of the municipality such available information as relates to the work of the planning commission;
  - i) In the performance of its functions, enter upon land to make examinations and surveys;
  - j) Participate in a regional planning program;
  - k) Retain staff and consultant assistance in carrying out its duties and powers;
  - l) Undertake comprehensive planning, including related preliminary planning and engineering studies; and
  - m) Other such acts or functions as it may deem necessary or appropriate to fulfill the duties and obligations imposed by, and the intent and purposes of the Act.
- 3) **Development Review Board.** A Development Review Board, whose number of members shall consist of not less than three (3) nor more than nine (9) members, shall be appointed by the Village Trustees for terms of three (3) years. A Development Review Board member may also be a member of the Planning Commission. Vacancies shall be filled by the Village Trustees for unexpired terms and upon the expiration of terms. Any member of the Development Review Board may be removed for just cause by the Village Trustees upon written charges and after a public hearing. The Development Review Board shall adopt rules of procedure and ethics policies with regard to conflicts of interest to guide its official conduct in accordance with the requirements of the Act [§4461] and Vermont's Open Meeting Law [1 V.S.A. §§310-314]. The Development

Review Board shall have all powers set forth in the Act to administer the provisions of these regulations, including, but not limited to, the power to:

- a) Review requests for access by right-of-way or easement for land development without frontage under Section 4.2;
- b) Review proposed conditional uses under Section 3.2;
- e) Review planned unit developments under Article 6;
- f) g) Site plan review under Section 3.3;
- h) Review proposed subdivisions under Article 7;
- j) Review appeals from a decision of the Zoning Administrator under Section 9.3;
- k) Review of request for variances under Section 3.4;
- l) Review of waiver applications under Section 3.5;
- m) Resolve uncertainties in the Official Zoning Map, except for disputes involving flood hazard area boundaries; and
- n) Any other reviews required by these regulations.

**B) Fees.** The Village Trustees shall establish a schedule of application fees and amend the schedule as needed to cover some or all the cost of the administration and enforcement of these regulations. In accordance with the Act [Section 4440], the fee schedule may include provisions that require applicants to pay for reasonable costs of an independent technical review of their applications. The schedule of fees shall be posted in the offices of the Municipal Clerk and Zoning Administrator, and may be altered or amended only by resolution of the Trustees. There shall be no fee charged for the issuance of a Certificate of Occupancy.

**C) Issuing Zoning and Subdivision Permits.**

Zoning and subdivision permits shall be issued by the Zoning Administrator only in accordance with the Act [§4449] and these regulations. If the Zoning Administrator finds these regulations to be unclear in relation to determining a proposals conformance, the Zoning Administrator must refer the application to the Development Review Board for a determination.

**The Zoning Administrator must refer all land development that requires conditional use review, site plan review, subdivision approval, variance approval, access by right of way approval, and any other board approval to the DRB before a zoning permit or denial may be issued.**

- 1) Within 30 days of receipt of a completed application, including all materials and fees, the Zoning Administrator shall either issue or deny a permit in writing, or refer the application to the Development Review Board for their review and action. If the Zoning Administrator fails to act within the 30 day period, a permit shall be deemed issued on the 31<sup>st</sup> day. In the case of referral for Board approval, the Zoning Administrator shall issue or deny a permit based on and concurrently with the Board's decision (see also Section 9.1 (F) below). Each permit or denial issued shall include a statement of the time in which appeals may be made under Section 9.3.
- 2) When a permit is issued under these regulations, the applicant shall post a permit notice, on a form provided by the Village of Enosburg Falls, within view of the public right-of-way most nearly adjacent to the subject property until the applicable time for appeal

under Section 9.3 has passed. The notice shall contain a statement of the appeal period and information noting where a full description of the project and approval can be found.

- 3) Within three (3) days following the issuance of a permit under these regulations, the Zoning Administrator shall post a copy of the permit in the Village Clerk's Office until the expiration of the appeal period and a copy shall be provided to the Listers.
- 4) For development where a prior permit or approval has been issued, including subdivision plat approval, no permit shall be issued until documentation is provided that all applicable conditions of the prior permit or approval have been met.
- 5) In the Flood Hazard Overlay District:
  - a) No permit for new construction or substantial improvement shall be granted until a copy of the application is mailed or delivered by the Zoning Administrator or by the appropriate Board, to the State National Flood Plain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section and either thirty (30) days have elapsed following the mailing or the agency delivers comments on the application, which ever comes first.
  - b) Adjacent communities and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section shall be notified at least 30 days prior to issuing any permit for the alteration or relocation of a watercourse and copies of such notification shall be submitted to the Administrator of the National Flood Insurance Program.

#### **D) Public Notice Requirements.**

- 1) A warned public hearing is required for site plan review, conditional use review, variance review, waivers, appeals of decisions made by the Zoning Administrator, and final plan subdivision review in accordance with the provisions below. Public notice shall be given not less than 15 days prior to the date of the hearing by all of the following:
  - a) Publication of the date, place and purpose of the hearing in a newspaper of general circulation in the municipality;
  - b) Posting of the same information in three (3) or more public places within the municipality, including the posting of a notice within view from the public right-of-way nearest to the property for which the application is being made;
  - c) Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-ways, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal; and
  - d) For hearings on subdivision plats located within 500 feet of a municipal boundary, written notification the clerk of adjoining municipality.
- 2) Public notice for Preliminary Plan Subdivision Review shall be given not less than 7 days prior to the date of the public hearing, and shall at a minimum include the following:
  - a) Posting of the date, place and purpose of the hearing in three (3) or more public places within the municipality, and
  - b) Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which

includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding, is a prerequisite to the right to take any subsequent appeal.

- 3) The applicant shall be required to bear the cost of public warning and the cost and responsibility of notifying adjoining landowners as required above, as determined from the current municipal grand list. The applicant may be required to demonstrate proof of delivery to adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last know address supported by a sworn certificate of service.
- 4) No defect in the form or substance of any required public notice under this section shall invalidate the action of the Development Review Board where reasonable efforts have been made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the Development Review Board or the Environmental Court, the action shall be remanded to the Board to provide new posting and notice, hold a new hearing, and take a new action.

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

- 1) **Quorum.** For the conduct of any hearing, and the taking of any action, a quorum shall be not less than the majority of members of the Development Review Board. Any action of the Board shall be taken by a concurrence of the majority of the members of the Board.
- 2) **Minutes.** The Development Review Board shall keep minutes of all its proceedings, which shall include the names of all members present, names of other active participants, all motions, proposals, and resolutions made, major discussion on all motions, proposals, and resolutions made, and the results of any vote taken. Minutes shall be filed in the Village Office as public records not more than 5 days after the meeting.
- 3) **Public Hearings.** Public hearings of the Development Review Board shall be noticed and warned in accordance with D above. In accordance with the Board's adopted Rules of Procedure and Ethics Policies, in any public hearing there shall be an opportunity for each person wishing to achieve status as an interested person for purposes of appeal under Section 9.3, to demonstrate that they meet the criteria as defined in Article 10. The Development Review Board shall keep a record of the name, address, and participation of each of these persons.
  - a) During all public hearings, the Development Review Board may:
    - i) examine or caused to be examined any property, maps, books, or records bearing upon the matters concerned in that proceeding;
    - ii) require the attendance of any person having knowledge concerning the application;
    - iii) require an independent technical review of one or more aspects of an application, such as, but not limited to, a traffic study, environmental impact analysis, or economic impact analysis, to be paid for by the applicant.

iv) take testimony and require that all information be documented as accurate, and administer oaths or take acknowledgement in respect to those matters.

5) **Continued Hearings.** The Development Review Board may continue a hearing on any application or appeal pending the submission of additional information affecting the approval under question, provided that the next hearing date, time, and place are announced at the hearing and that the date is set for no more than 60 days from the date of the original hearing.

<p style="text-align: center;"><b><u>Deliberations:</u></b> <b><u>Getting from the Public Hearing to the Decision</u></b></p> <p>⇒ <b>Once the Board has heard evidence on a case in a public hearing, the Board needs to deliberate on the evidence and come to a decision.</b></p> <p>⇒ <b>Deliberations start after the Chair closes the public hearing and opens deliberations.</b></p> <p>⇒ <b>Deliberations are not subject to the open meeting law, and therefore if minutes are taken they are not part of the public record.</b></p> <p>⇒ <b>Deliberations may be open to the public or closed to the public.</b></p> <p>⇒ <b>During open deliberations, the public may stay to listen but cannot participate in the discussion.</b></p> <p>⇒ <b>If the board is deliberating in private, the public must leave.</b></p>
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F) **Issuing Decisions of the Development Review Board.** The Development Review Board shall prepare a written decision for all land development applications referred from the Zoning Administrator within 45 days after the adjournment of the public hearing. Within the same time period, the Zoning Administrator shall send the Board's decision, in addition to a permit or denial in accordance with the board's decision, to the applicant or appellant by certified mail. Copies of each decision shall also be mailed to every person or body appearing and having been heard at the hearing, be recorded in the municipal land records, and a copy maintained on file in the municipal office in accordance with the Act. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective the 46<sup>th</sup> day. In addition:

- 1) All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on recorded evidence. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals under Section 9.3 may be taken. The minutes of a meeting may suffice, provided that the factual basis and conclusions relating to the review standards are provided in accordance with these requirements.
- 2) In making a decision in favor of the applicant, the Development Review Board may attach conditions and safeguards as it deems necessary to implement the purposes of the Act, these regulations, and the municipal plan currently in effect.

**G) Permit Effective Date.**

- 1) **For permits issued without board review.** No zoning permit shall take effect until the time for appeal under Section 9.3 (A) has passed or, in the event that a notice of appeal is properly filed, until final adjudication of that appeal by the board is complete.
- 2) **For permits issued with board review.** No zoning permit shall take effect until the time for appeal under Section 9.3 (B) has passed or in the event that a notice of appeal is properly filed, until the Environmental Court issues a stay or the expiration of 15 days, which ever comes first.

**H) Permit Expiration.**

- 1) **Zoning Permits.** Zoning permits remain in effect for two (2) years from the date of issuance, unless the permit specifies otherwise. All development authorized by the zoning permit shall be substantially commenced within this period. At a minimum, development must include the complete construction of an access, a foundation, and a wastewater and water supply permit, or the zoning permit shall become null and void and reapplication and approval for further development shall be required.
  - a) **Extension.** The Zoning Administrator may administratively issue one (1) permit extension of not more than two (2) years from the date of application, if the application for an extension is made in writing prior to permit expiration, and it is determined by the Zoning Administrator that the extension is justified due to delays in the issuance of other necessary permits, project financing, or other unforeseen circumstances.
- 2) **Subdivision Plat Approval.** Subdivision permits never expire as long as they are filed properly according to (J) below.

**I) Zoning Permit Recording Requirements.** Within 30 days after the issuance of a zoning permit or notice of violation, the Zoning Administrator shall deliver either the original, a legible copy, or a notice of the permit or violation to the Municipal Clerk for recording in the municipal land records as provided in 24 V.S.A. 1154(a). The applicant may be charged the cost of the recording fees as required by law. Recording requirements for subdivision review are in Section 7.5.

- 1) The Zoning Administrator shall maintain a record of development within the Flood Hazard Area Overlay District including:
  - a. All permits issued for development in areas of special flood hazard;
  - b. The elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings;
  - c. The elevation, in relation to mean sea level, to which buildings have been floodproofed;
  - d. All flood proofing certifications required under this regulation; and
  - e. All variance actions, including justification for their issuance.

**J) Subdivision Plat Recording Requirements.** Within 180 days of the date of receipt of Final Plan approval under Section 7.4(D), the applicant shall file with the Zoning Administrator two (2) hard copies and one (1) digital copy of the final subdivision plat signed by the Chair of the Development Review Board, including one (1) mylar copy and (1) paper copy for recording with the town. Digital copies shall include all survey data projected in Vermont

State Plane meters. The Development Review Board may waive the requirement to file a digital copy for minor subdivision projects. Approval of subdivision plats not filed and recorded within this 180 day period shall expire. However, upon request the Zoning Administrator may grant one 90-day extension for plat filing.

**K) Combined Review.** In cases where a proposed project will require more than one type of development review, the Development Review Board may warn and hold a single hearing for the purpose of reviewing and acting on the proposal. The Zoning Administrator shall identify proposed projects appropriate for combined review and assist the applicant in preparing and submitting coordinated applications to facilitate combined review. In cases where a joint hearing cannot be conducted to address each necessary review, the proceedings for each review shall occur concurrently or semi-concurrently (initiating one review process while the preceding process is nearing completion).

- 1) To the extent feasible, the combined review process shall be conducted in the following order:
  - a) Flood Hazard Area Development Review
  - b) Site Plan
  - c) Access by right-of-way
  - d) Requests for Waivers or Variances
  - e) Subdivision Approval (preliminary and final) or PUD approval
  - f) Conditional Use Review
- 2) All notice requirements and provisions applicable to each purpose of the hearing shall be complied with. Notice for combined review, to the extent feasible, shall be made in the same public notice. In the case of differing notice requirements, the process which provides more notice, by amount of time or by other means, shall apply.
- 3) All decision requirements and deadlines applicable to each purpose of the proceedings shall apply. Separate written decisions shall be issued for each review conducted as part of the combined review, but shall be coordinated where possible.

**L) Review Under Pending Amendment to these Regulations.** If public notice for the first public hearing by the Village Trustees has been issued with respect to amendment of these regulations, the Zoning Administrator shall review any new application received within 150 days following the date of public notice under the proposed amendment and applicable existing requirements of these regulations. If the new bylaw or amendment has not been adopted or rejected within this 150-day period, or the bylaw is rejected, the application shall be reviewed under the existing regulations. An application that has been denied under a proposed bylaw or amendment that has not been adopted, or had been rejected, shall be reviewed again at no cost under the existing regulations at the request of the applicant.

**M) Computation of Time.** Where an event is required or permitted to occur by these regulations before, on, or after a specified period of time measured from another event, the first day shall not be counted and the final day shall be counted in calculating the period.

## SECTION 9.2 CERTIFICATE OF OCCUPANCY

- A) A certificate of occupancy issued by the Zoning Administrator shall be required prior to occupancy of any building or structure or part thereof for which a zoning permit has been issued to ensure that the permitted land development has been completed according to permit conditions and these regulations. If a Wastewater and Potable Water Supply permit under Section 4.14 is required, the Zoning Administrator shall not issue a Certificate of Occupancy until such permit has been issued and filed in the town land records.
- 1) The Zoning Administrator shall provide an application for a certificate of occupancy with all zoning permits issued according to these regulations. The applicant shall submit the application and receive approval prior to the use or occupancy of the land or structure.
  - 2) The Zoning Administrator may inspect the premises to ensure that all work has been completed in conformance with the zoning permit and associated approvals, including all permit conditions.

## SECTION 9.3 APPEALS

- A) **Decisions of the Zoning Administrator.** The applicant or an interested person as defined in (C) below may appeal any decision or act taken by the Zoning Administrator by filing a written notice of appeal with the Development Review Board within 15 days of the act or decision.
- 1) The Board shall hold a public hearing warned in accordance with Section 9.1 (D) within 60 days of receiving a notice of appeal and mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.
  - 2) The Board may reject an appeal without hearing, and issue a decision and findings of fact within 10 days of the filing of a notice of appeal, if the Board considers the facts or issues raised by the appellant to be substantially or materially the same as those decided in a previous appeal by the appellant.
  - 3) Upon completion of a hearing, the Board shall issue a written decision in accordance with Section 9.1 (F). If an appeal is approved, the permit shall take effect immediately; if an appeal is denied, it shall be null and void immediately.
- B) **Decisions of the Development Review Board.** The applicant or an interested person who has participated in a municipal regulatory proceeding may appeal a decision of the Development Review Board within 30 days of its issuance to the Environmental Court.
- 1) Participation in a local regulatory proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.
  - 2) Notice of appeal shall be sent by certified mail, with fees, to the Environmental Court and by mailing a copy to the Zoning Administrator, who shall supply a list of interested persons (including the applicant if not the appellant) to the appellant within five (5) working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person.
- C) **Interested Persons.** For the purposes of this bylaw, an interested person means any one of the following:



- 1) A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw who alleges that such regulation imposes on such property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case.
- 2) The municipality in which the plan or bylaw of which is at issue in an appeal brought under this chapter or any municipality which adjoins such municipality.
- 3) A person owning or occupying property in the immediate neighborhood of a property which is the subject of any decision or act taken under this chapter, who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan or bylaw of that municipality.
- 4) Any ten persons owning real property within a municipality listed in subdivision (2) of subsection who, by signed petition to the development review board the plan or a bylaw of which is at issue in any appeal brought under this title, allege that any relief requested by a person under this title, if granted, will not be in accord with the policies, purposes or terms of the plan bylaw of the village.
- 5) Any department and administrative subdivision of this state owning property or any interest therein within a municipality listed in subdivision (2) of this subsection, and the agency of commerce and community development of this state.

#### **SECTION 9.4 VIOLATIONS AND ENFORCEMENT**

- A) Violations.** The commencement or continuation of any land development, subdivision, or use, which is not in conformance these regulations, is a violation. Any person who is found in violation of these regulations shall be fined not more than \$100 per lot or parcel for each offense, unless a higher fine is permitted under the Act in which case the highest possible fine shall be imposed. Each day that a violation is continued shall be a separate offense. All fines imposed and collected shall be paid to the Village of Enosburg Falls.
- B) Filing a Complaint.** Whenever a violation of these regulations occurs, or is alleged to have occurred, any person may file a written complaint with the Zoning Administrator. The complaint shall state fully the causes and basis for the alleged violation. The Zoning Administrator shall properly record such a complaint, immediately investigate, and take action as appropriate in accordance with these regulations.
- C) Notice of Violation.** No violation may be enforced unless the alleged offender has had at least 7 weekdays notice by certified mail that a violation exists and has failed to satisfactorily respond or correct the alleged violation. The warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the 7 day period, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the 7 day period. Action may be brought without notice and opportunity to cure, if the alleged offender repeats the violation of the bylaw after the 7 day notice period and within the next succeeding 12 months.
- D) Violation of Flood Hazard Area Overlay District Regulations.** Where a violation of the Flood Hazard Overlay District standards and regulations in Section 3.6 has not been cured after a warning notice has been sent in accordance with (C) above, the Zoning Administrator

shall submit a declaration to the Administrator of the NFIP requesting a denial of flood insurance. Section 1316 of the National Flood insurance Act of 1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations. The declaration shall consist of:

- 1) the name of the property owner and address or legal description of the property sufficient to confirm its identity or location,
- 2) a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance,
- 3) a clear statement that the public body making the declaration has authority to do so and a citation to that authority,
- 4) evidence that the property owner has been provided notice of the violation and the prospective denial of insurance, and
- 5) a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

**E) Limitations on Enforcement.** The municipality shall observe the 15 year limitations on enforcement proceedings relating to municipal permits and approvals as set forth in the Act [Sections 4454].

## **ARTICLE 10. DEFINITIONS**

### **SECTION 10.1 INTERPRETATION**

Except where specifically defined herein, all words used in these regulations shall carry their customary meaning. The word "shall" is mandatory and the word "may" is permissive. Any interpretation by the Zoning Administrator may be appealed to the Development Review Board for a declaratory ruling. In such cases, the Board shall base its ruling upon the following definitions, state statute, and the need for reasonable and effective implementation of this bylaw.

### **SECTION 10.2 DEFINITIONS**

**Accessory Dwelling:** 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.
- Applicable setback, coverage, and parking requirements specified in these regulations are met.
- The owner lives in either the single family dwelling or the accessory apartment. 24V.S.A.(1)(E).

**Accessory Structure:** A structure which is detached from the primary structure and is 1) clearly incidental and subordinate to the principal use of or structure on a lot, 2) located on the same lot as the primary 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, playhouses, boat houses for the storage of 3 or fewer boats, and wading or swimming pools less than 3 feet in depth with an area less than 200 square feet; and which are incidental to the residential use of the premises and not operated for gain. See also accessory use.

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

**Affordable Housing:** Housing that is either:

- a) owned by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes, insurance, and condominium association fees is not more than 30 percent of the household's gross annual income; or
- b) rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, 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.

**Agribusiness:** An individual or firm supplying raw materials, feed, equipment, and or services to producers of agricultural products for market.

**Agriculture:** Land or structures used for cultivating the soil and producing crops or raising livestock, for the purpose of economic gain, including the sale of such farm crops, horticultural products, livestock, or forest products raised on the property. Does not include slaughterhouses.

**Alteration:** Structural change, rearrangement, change of location, or addition to a building.

**Auction House:** A facility used for the temporary storage and sale on premises of new and used goods by means of a request or invitation for bids. This definition specifically excludes retail sales.

**Automobile/Motor Vehicle Repair:** An enclosed establishment whose primary purpose is the repair of automobiles and other motor vehicles, including body shops and general vehicle and engine repair, rebuilding and/or reconditioning shops, but excluding automobile sales. See also mixed use, automobile sales, gas station.

**Automobile/Motor Vehicle Sales:** Any lot or area of land including the building(s) on the land, which is used for the sale, lease, and/or rental of automobiles or motor vehicles and accessory products. This definition specifically excludes automobile or motor vehicle repair services. See also automobile repair, gas station, mixed use.

**Base Flood (In reference to development in the Flood Hazard Overlay District):** The flood having a 1 percent chance of being equaled or exceeded in any given year. Also, known as the "100-year flood".

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

**Bed and Breakfast:** A single family dwelling occupied by the owner or operator, in which not more than three rooms accommodating up to six guests within the dwelling and/or in an accessory structure located on the same lot, are rented out to provide overnight accommodations to travelers. Individuals cooking and eating facilities shall not be provided; breakfast shall be the only meal served and shall be limited to overnight guests. The bed and breakfast shall function as a private home with house guests. See Lodging Facility.

**Building:** Structure not readily moveable consisting of a roof supported by columns or walls intended for the shelter or enclosure of persons, animals, or personal property.

**Building Contractor Yard:** A parcel of land with or without buildings where a construction business or related trade has an office and/or stores materials or equipment pertinent to that business. The use of this structure/land does not allow wholesale or retail sale of materials.

**Building Front Line:** Line parallel to the street line transecting that point of the building that is closest to the street line. Where a lot fronts on public waters but not a public road, "mean high water line" shall replace "street line" in the definition.

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

**Building Materials Dealer:** Business involved with the sale of building materials, such as lumber, plumbing supplies, electrical supplies, etc.

**Building Rear Line:** Line parallel to the street line transecting that point of the building that is farthest from the street line. Where a lot fronts on public waters but not a public road, "mean high water line" shall replace "street line" in the definition.

**Building Side Line:** Line parallel to the nearest side lot line transecting that point of the building which is nearest the side lot line.

**Business or Professional Office:** A room, suite of rooms, or building principally used for conducting the affairs of a business, profession, or service industry. This definition specifically excludes office space which is associated with home occupations or is clearly accessory to another allowed principle use. See also home occupation.

**Camping Vehicle/Camper:** Any motorized or non motorized vehicle mounted on wheels and used as sleeping, camping, or living quarters on a temporary basis. Includes a camper body mounted on a truck, but not a mobile home.

**Campground:** A parcel of land upon which three or more campsites are located for occupancy by a tent, camper, cabin, lean-to, or similar structure as temporary living quarters for recreation, education, or vacation purposes. "Primitive campgrounds" are further characterized as campgrounds which are limited to substantially unimproved camp sites intended for tenting use only.

**Car Wash:** A structure or portion thereof, containing facilities for washing motor vehicles by hand washing or by using production line, automated or semi automated methods for washing, whether or not employing a chain conveyor, blower, steamer, or similar mechanical device.

**Cemetery:** Property used for interring the dead. May include mausoleums or other structures, which must meet the required setbacks and other relevant regulations regarding structures.

**Child Care Facility:** Any establishment, except those supported in whole by tax funds, operated as a business or service on a regular or continual basis, whether for compensation or not, which

provides care, protection, supervision and/or education for more than 6 full time and 4 part time children for periods of less than 24 hours. This definition shall encompass all those facilities that are required to be licensed by the State of Vermont as a day care facility, kindergarten, and/or nursery school which have an enrollment of over 10 children. See also child care home.

**Child Care Home:** A state registered or licensed facility serving 6 or fewer children on a full time basis, and up to 4 additional children on a part time basis as defined in statute [33 V.S.A. §4902(3)(A)] which is considered to constitute a permitted single family residential use of property. See also child care facility.

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

**Commercial School:** Commercially operated schools of beauty, culture, business, dancing, driving, music, and similar establishments.

**Communications Studio:** Establishments furnishing point to point communications services, whether by wire or radio, either aurally or visually, including radio and television broadcasting stations and the exchange or recording of messages.

**Community Care Facility:** A facility licensed by the state which provides primarily non-medical residential care services to 9 or more individuals in need of personal assistance essential for sustaining the activities of daily living, or for the protection of the individual, excluding members of the resident family or persons employed by the facility, on a 24-hour a day basis. See also group home.

**Community Center:** A building used for recreational, social, and cultural activities which is not operated for profit and is intended primarily to serve the population of the community in which it is located.

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

**Convenience Store:** A small retail establishment, not to exceed 1,200 square feet in floor area, whose business consists primarily of the sale of groceries and retail items. The sale of motor vehicle fuels, including gasoline, is specifically excluded, unless approved as a mixed use. See also automobile service station, mixed use, retail sales and service.

**Cultural Facility:** A museum, theater, concert hall, library, art gallery or other establishment offering programs, performances or exhibits of cultural, educational, historical, or scientific interest, excluding movie theaters as a principal use. See also Recreation/Indoor.

**Development:** See *Land Development*.

**Drive-In Establishment:** Any business or professional service office, financial institution, restaurant, or other establishment that by design, physical facilities, or service encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

**Driveway:** A private access to a road that serves no more than two lots.

**Dwelling, Multiple Family:** A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided. This definition includes attached townhouse dwellings in a row of at least three units in which each unit has its own front yard and rear access to the outside and is separated from any other unit by one or more vertical common fire resistant walls.

**Dwelling, Single Family:** A detached residential dwelling unit designed for and occupied by one family only. Also includes part-time or seasonal dwellings.

**Dwelling, Two Family:** A detached residential building containing two dwelling units, designed for occupancy by not more than two families.

**Dwelling Unit:** One or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single household.

**Educational Facilities:** A public, private or parochial institution licensed by the State of Vermont to provide educational instruction to students. Such facilities may also include accessory recreational and dining facilities, and be used as officially designated, temporary emergency shelters. See also commercial school.

**Existing Manufactured Home Park or Subdivision (in reference to development in the Flood Hazard Overlay District):** 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 (In reference to development in the Flood Hazard Overlay District):** 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).

**Extraction:** A use involving the on-site removal of surface and subsurface materials, including soil, sand, gravel, stone, rock, minerals or similar materials. Typical uses include sand and gravel pits and quarries, and related operations such as crushing, screening, and temporary storage of materials on-site. Specifically excluded from this definition is the grading and removal of dirt which is associated with and incidental to an approved site plan or subdivision, or an excavation associated with an accepted agricultural practice. See also quarrying.

**Farmers Market:** An occasional or periodic market held in an open area or structure where groups of individual sellers offer primarily locally produced agricultural produce and value added products for sale. See also garage sale, roadside stand.

**Financial Institution:** A bank, savings and loan, finance, mortgage or investment company that is open to the public.

**Flea Market (Indoors):** An occasional or periodic market held in a fully enclosed structure (walls, windows, and a roof), where groups of individual sellers offer goods for sale to the public.

**Flood Insurance Rate Map (FIRM) (In reference to development in the Flood Hazard Overlay District):** An official map of a community on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

**Flood Insurance Study (In reference to development in the Flood Hazard Overlay District):** An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.

**Floodproofing (In reference to development in the Flood Hazard Overlay District):** 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 (In reference to development in the Flood Hazard Overlay District):** 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.

**Frontage:** The length of the front lot line for a single parcel of land which runs contiguous to and parallel with public right-of-way or private street or easement which it borders.

**Front Yard Setback:** The distance from the building front line to the edge of the traveled roadway. Where a lot fronts on public waters but not a public road, the front yard setback shall be measured from the building front line to the mean high water mark.

**Funeral Home:** A building or part thereof used for human funeral services. Such building may also contain space and facilities for preparation of the dead for internment or cremation; the performance of autopsies and associated surgical procedures; the storage and sale of caskets, funeral urns and related funeral supplies; and the storage of funeral vehicles.

**Garage Sale:** The casual sale or offering at any one time of ten or more new, used, or second hand items of tangible personal property to the general public, which is generally advertised by such terms “garage sale”, “rummage sale”, “attic sale”, “lawn sale”, “porch sale”, “barn sale”, or similar phrase. (See exemptions under Section 3.1(B)).



**Gas Station:** Any lot or area of land including the building(s) on the land, which has facilities for fueling motor vehicles. Gas stations may offer for sale automobile or motor vehicle fuels, lubricants, and related motor vehicle products. This definition specifically excludes automobile repair, automobile sales, and the sale of food and unrelated convenience or grocery items. See also automobile repair, automobile sales, convenience store, mixed use.

**Group Home:** A state licensed or registered residential care home serving not more than 8 persons who are handicapped or developmentally disabled as defined in 9 V.S.A. §4501. In accordance with the Act [§4412G], such a group home shall be considered by right to constitute a permitted single family residential use of property, except that no such home shall be so considered if it is located within 1,000 feet of another such home. For the purposes of these regulations, a group home shall also include an emergency shelter for up to 8 adults and/or children. See Section 5.8.

**Hazardous Materials:** Any material or combination of materials that may be explosive, flammable, toxic, acidic, corrosive, etiologic agent, caustic, pathogenic, or radioactive in either liquid, solid, or gaseous form, or when acted upon by heat or radioactivity may become hazardous. any material when present in sufficient quantity or combination which may be reasonably assumed to constitute a peril for health and safety of employees, nearby residents, emergency personnel, and others who may be exposed to them.

**Hazardous Waste Management Facility:** A building or structure or any portion of a building or structure that is used for the storage or transfer of hazardous waste. Hazardous waste includes any wastes falling under the definition of hazardous waste in Title 10 V.S.A., section §6602 or any other subsequent legislative amendments.

**Historic Structures (In reference to development in the Flood Hazard Overlay District):** Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) By an approved state program as determined by the Secretary of the Interior or (ii) Directly by the Secretary of the Interior in states without approved programs.

**Home Industry:** An extended home based business (home occupation) conducted by the residents of a single family dwelling, which is carried on within the principal dwelling and/or an accessory structure such that the floor area dedicated to the business use is not more than 50% of the total habitable floor area of the dwelling unit, and that has no more than two (2) nonresident employees onsite at any one time. See also home Occupation.

**Home Occupation:** An accessory business conducted by the residents of a single family dwelling, which is carried on within a minor portion the principal dwelling and/or an accessory structure, such that the floor area dedicated to the business use is less than 25% of the total habitable floor area of the dwelling unit, and that has not more that one (1) nonresident employee onsite at any one time. See also Home Industry.

**Hospital/Health Clinic:** A building or part thereof used for the medical, dental, surgical, or therapeutic treatment of human beings, but does not include a professional office of a doctor located in his or her residence and elderly or disabled care homes such as group homes and community care facilities.

**Junkyard:** Any place of outdoor storage or deposit which is maintained, operated or used in connection with a business for storing, keeping, processing, buying or selling junk or as a scrap metal processing facility. "Junkyard" also means any place of outdoor storage or deposit, not in connection with a business which is maintained or used for storing or keeping four or more junk motor vehicles which are visible from any portion of a public highway. However, the term does not include a private garbage dump or a sanitary landfill that is in compliance with Section 2202 of Title 24 of V.S.A. and the regulations of the secretary of human services. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.

**Kennel:** Any premises in which the care, boarding, breeding, grooming, or training of four or more dogs, cats, or other domestic animals is done for primarily commercial or monetary purposes.

**Land Development:** The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill and any change in the use of any building or other structure or land or extension of use of land. Land development in the Flood Hazard Overlay District shall mean any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**Land Subdivision:** The division of any parcel of land into two or more parcels for the purposes of sale, conveyance, lease, or development. The term "subdivision" includes boundary line adjustments.

**Light Manufacturing:** Manufacturing, assembling, converting, altering, finishing, cleaning, or any other processing of products where goods so produced or processed are to be sold exclusively on the premises, provided that: 1) an area fully concealed from any street and equal to not more than 20 percent of the area devoted to retail sales shall be so used; and 2) not more than 3 employees are engaged in such production or processing.

**Lodging Facility:** An inn, motel, hotel or other lodging facility that is made up if one building or a group of buildings containing guest rooms for occupancy and use by travelers or transients on a short term basis (less than one month on average), and having a management entity

operating the buildings and providing such services as maid service, a central switchboard, or dining facilities for guests. See also bed and breakfast, mixed use, restaurant.

**Lot:** A parcel of land under one ownership and not divided by any state or town highway to be occupied by only one principal building and its accessory building(s) or use(s). A lot shall have not less than the minimum area, width, and depth required for the district in which it is located, and shall have frontage on an improved street or road or other legally approved access as required by these regulations. This definition includes an existing small lot which may not meet minimum area, width, depth, or developable land area requirements.

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

**Lot Coverage:** That percentage of the lot area covered by all principal and accessory building areas.

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

**Lowest Floor (In reference to development in the Flood Hazard Overlay District):** means The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or enclosure, usable solely for parking of vehicles, building access, or storage in a 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 Section 3.3 (C) (6).

**Manufactured Home:** A structure that is 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” specifically does not include a “recreational vehicle”. Manufactured homes must meet the Federal Manufactured Home Construction and Safety Standards Act (42 USC Section 5401 [1976], commonly known as the HUD code.

**Manufacturing:** Any process where the nature, size, or shape of articles or raw materials are changed, or where articles are assembled and packaged. The processing of agricultural products on the premises where produced shall not be deemed to be manufacturing.

**Master Plan:** A conceptual plan for the potential ultimate use of an entire tract of land which allows the owner to identify and address characteristics of the property which could be affected adversely over time by incremental development of the property. See Section 3.2(D).

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

**Mineral or Gas Exploration:** Any land alteration undertaken by a person or firm in search of oil, gas, or minerals. Includes drilling, pad installation, site clearing, access road improvements or construction, etc. Exploration efforts that do not significantly alter the land and that do not pose potential nuisances to adjoining properties would be excluded. Included in this category are boundary survey work, geophysical testing along public roads, etc.

**Mixed Use:** A building or parcel containing two or more principal uses permitted or conditionally permitted in the particular district in which the building is located.

**Mobile Home:** A prefabricated dwelling unit which is designed for long-term and continuous residential occupancy, is designed to be moved on wheels as a whole or in sections, and is ready for occupancy upon arrival at the site except for incidental unpacking, assembly, connections with utilities, and placement on supports or foundation.

**Mobile Home Park:** Any parcel or contiguous lots of land under common ownership or control on which are sited, or which is designed, laid out or adapted to accommodate, more than two mobile homes. A parcel or contiguous lots owned by agricultural employers providing up to four mobile homes for use by full-time workers or employees, and a parcel or contiguous lots used solely on a seasonal basis for vacation or recreational mobile homes shall not be considered a mobile home park. For development in the Flood Hazard Area Overlay District, a **manufactured home park or subdivision** shall mean a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale and a **new manufactured home park or subdivision** shall mean 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.

**Multiple-Tenant Elderly Housing:** Housing specifically designed, built, operated, and reserved for elderly residents, consistent with the intent of federal and state elderly housing legislation.

**Municipality:** A Town, a city, or an incorporated village or an unorganized town of gore. An incorporated village shall be deemed to be within the jurisdiction of a town for the purposes of this chapter, except to the extent that a village adopts its own plan and one or more bylaws either before, concurrently with, or subsequent to such action by the town, in which case the village shall have all authority granted a municipality under this chapter and plans and bylaws of the town shall not apply during such period of time that said village plan and bylaws are in effect.

**New Construction (In reference to development in the Flood Hazard Overlay District):** for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**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 office. 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(15)

**Nonconforming Use:** Any lawful structure or any lawful use of any structure or land existing at the time of the enactment of these regulations may be continued, although such structure or use does not conform with the provisions of these regulations, provided the conditions in this section are met.

**Nursing Home:** A facility licensed by the State of Vermont which provides long term health care to patients in a residential setting with twenty-four hour care and professional administration and staff.

**Parking Facility:** A structure, part of a structure, or lot that is exclusively used for the parking of vehicles during business hours.

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

**Personal Services Establishment:** Businesses providing services of a personal nature including but not limited to barber or beauty shops, caterers, decorators, florist, photographic studio, shoe shine & repair, laundry, dry cleaners, electrical appliance, and television repair shop.

**Personal Storage Units:** Rental facilities designed to hold personal belongings of private individuals.

**Place(s) of Worships:** A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque, or other such place for worship and religious activities.

**Planned Unit Development (PUD):** An area of land controlled by one or more landowners to be developed as a single entity, the plan for which may propose any combination of density or intensity increases, or the mixing of land uses, and which need not correspond to bylaw requirements that are otherwise applicable to the area in which it is located with respect to lot size, bulk, or type of dwelling or building, use, density, intensity, lot coverage, parking, or other standards.

**Planning Commission:** A Planning Commission for a municipality created under Subchapter 2 of V.S.A. title 24 chapter 117.

**Pre-Existing Small Lots:** See nonconforming lots or parcels.

**Principal Structure/Use:** A structure or use directly involved with the primary purpose of ownership on a particular lot, which, together with its accessory structures/uses, constitutes all structures and uses of said lot.

**Private Club:** An establishment operated for social, educational or cultural purposes that is open only to members and their invited guests, and not the general public. See also Outdoor Recreation.

**Public Facilities:** A building or other facility owned, leased, held, used, and/or controlled exclusively for public purposes by a municipality, state, or federal government, regulated utility or railroad. Such facilities include, but may not be limited to municipal buildings and garages, water and wastewater facilities, power generation and transmission facilities, and correctional institutions. See Section 5.12 for limitations of these regulations in relation to public facilities.

**Public Notice:** The form of notice prescribed by section §4464 of the Act and Section 9.1(D) of these regulations.

**Quarrying:** The removal of rock by means of open excavation to supply material for construction, industrial or manufacturing purposes. See also extraction.

**Recreation Indoor:** A building or structure designed, equipped and used for sports, leisure time, and other recreational activities, except for such facilities which are accessory to an approved educational facility or a residential use. This includes, but may not be limited to bowling alleys, table tennis and pool halls, skating rinks, gymnasiums, and swimming pools.

**Recreation Outdoor:** A facility for outdoor recreation, including but not limited to a stadium, tennis courts, golf courses, athletic fields, swimming pools, and trails for hiking, horseback riding, bicycling, snowmobiling, and cross-country skiing; except for such facilities which are accessory to an approved educational facility or residential use.

**Recreation Public Outdoor:** Outdoor recreation limited to publicly owned and/or operated parks, playgrounds, and facilities.

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

**Redemption Center:** A store or other facility certified by the state [10 V.S.A. §1524] where a person may during normal business hours, redeem the amount of the deposit for an empty beverage container.

**Rental Business:** A business renting or leasing goods to individuals, contractors, industries, or other businesses. Said goods may be stored on the business premises when not leased or rented.

**Research and Testing Facility:** An establishment or other facility for carrying on investigation in the natural, physical, or social sciences, which may include engineering and product development.

**Restaurant:** Premises where food and drink (which may include alcohol) are prepared, served and consumed primarily within the principal building. This definition includes cafes, delis, and pubs but excludes taverns, bars, and nightclubs that primary serve alcohol or provide entertainment and drive through restaurants. See tavern/bar and drive in establishment.

**Retail Sales and Service:** Any building or part thereof where goods or merchandise are offered for retail sale to the general public for personal, business, or household consumption, and services incidental to the sale of such goods are provided. This definition includes supermarkets, but specifically excludes the retail sale of gasoline and automobiles and other goods and services that are otherwise more specifically identified under these regulations. See also automobile sales and service; convenience store, drive in establishment; building materials dealer; personal service establishment; restaurant.

**Roadside Stand:** Outside structure or structures used for the display and retail sale of local agricultural produce and locally-produced products such as honey, cider, maple syrup, etc. See also Farmer's Market.

**Salvage Yard:** A facility or area for storing, keeping, selling, dismantling, shredding, or salvaging of discarded material or scrap metal. This definition includes, but is not limited to "junkyards" as defined by the state.

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

**Setback:** The nearest distance between a building face and a public road or common right-of-way. For the purposes of this definition, a "building face" shall include attached porches and patios, whether enclosed or unenclosed, but does not include steps.

**Sign:** Any exterior device, structure, building, or part thereof, which is used to bring a subject to the attention of the public. Not to include advertising material of a temporary nature.

**Small Motor Vehicle Sales/Rental/Repair:** An establishment providing sales, rental and/or servicing of small equipment such as snowmobiles, 4-wheelers, lawn mowers etc.

**Solid Waste Transfer Station:** A facility certified by the state that functions as a collection point for solid waste that will subsequently be transported to a state-approved land fill or disposal facility. The facility will include, at a minimum, a receiving hopper and compacting equipment which are housed in an enclosed structure.

**Special Flood Hazard Area (In reference to development in the Flood Hazard Overlay District):** The land in the floodplain within a community subject to a 1 percent chance or greater chance of flooding in any given year. The area may be designated as Zones A, AO, AH, A1-30, AE, or A99 on the FIRM maps.

**Start of Construction (In reference to development in the Flood Hazard Overlay District):** 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.

**Storage/Distribution Facility:** Any building or part thereof used for the storage, wholesale and distribution of manufactured goods and materials, and not as a primary location or outlet for business for retail uses.

**Structure:** An assembly of materials for occupancy or use, included, but not limited to, a building, mobile home or trailer, a sign, or a wall or fence over 6 feet tall, except a wall or fence on an operating farm. Not included are sidewalks, driveways, accessory structures and temporary docks or floats. In reference to development in the Flood Hazard Overlay District, structure shall mean a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *Structure*, for insurance purposes, means: (a) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; (b) A manufactured home (“a manufactured home,” also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or (c) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under these regulations. For the latter purpose, “structure” does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in (c) of this definition, or a gas or liquid storage tank.

**Subdivision:** See Land Subdivision.

**Substantial Damage (In reference to development in the Flood Hazard Overlay District):** 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 Improvements (In reference to development in the Flood Hazard Overlay District):** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. The definition excludes any project for improvement of the structure to comply with existing state or local health, sanitary, or safety code specifications or any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic sites.

**Tavern/bar:** An establishment primarily used for the serving of liquor by the drink to the general public and where food may be served only as an accessory to the primary use.

**Temporary Structure:** A structure without a foundation or footings and that is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

**Temporary Use:** A use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

**Transit Facility:** A building, structure, or area designed and intended for use by persons changing transportation modes, including but not limited to bus and train stations and park and ride facilities.

**Truck Terminal:** A building or property used as a relay station for the loading, unloading, and transfer of goods transported by trucks or tractors, trailers. This definition includes the temporary storage of cargo in a warehouse awaiting transportation to its final destination.

**Use:** Specific purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or is intended to be occupied.

**Veterinary Clinic:** A building or part thereof used for the care, diagnosis, treatment and temporary boarding of animals. See also kennel.

**Violation:** The failure of any land development or subdivision to be fully compliant with these regulations, including the standards for the Flood Hazard Overlay District in Section 3.6. For a structure or other development in the Flood Hazard Area Overlay District without the elevation certificate, other certifications, or other evidence of compliance 12 required in 44 CFR 60.3, a violation shall be presumed until such time as that documentation is provided.

**Yard:** Space on a lot not occupied with a building or structure.

**Yard/Front:** Yard between the edge of road and building front line.

**Yard/Rear:** Yard between principal building and the rear lot line.

**Yard/Side:** Yard between side lot line and building side line.

**Zoning Administrator:** The administrative officer as defined in Title 24, Chapter 117.