

**ZONING BYLAW  
FOR THE  
TOWN OF FLETCHER, VT**

**APPROVED BY THE VOTERS OF THE TOWN OF FLETCHER:**

*OCTOBER, 25<sup>TH</sup>, 2002*

FLETCHER ZONING BYLAW

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## Article I. Authority and Purpose

### Section 1.1 Enactment

In accordance with the Vermont Municipal and Regional Planning and Development Act [24 V.S.A., Chapter 117], hereinafter referred to as “the Act,” there is hereby established a zoning bylaw for the Town of Fletcher, Vermont. This bylaw, upon adoption and while in effect, shall amend in its entirety the previous zoning bylaw adopted on March 3, 1981; however all permits, including attached conditions, issued under previous zoning bylaws shall remain in effect.

### Section 1.2 Purpose

(A) It is the purpose of this bylaw to encourage the appropriate development of all lands within the Town of Fletcher in a manner which will promote the public health, safety, and general welfare of its residents; to provide for orderly, efficient and compatible growth and development; to further the purposes of the Act [Section 4302]; and, in particular, to implement the Fletcher Town Plan, including plan goals and policies which are adopted by reference for the purposes of development review, and may be generally summarized as follows:

- to ensure that the rural character of the Town ~ including its resource based economy, natural environment, cultural landscape, and the rural lifestyle enjoyed by its residents ~ is maintained;
- to provide for orderly development in suitable locations in order to enhance the quality of life of all Fletcher residents, and to ensure that community facilities and services are not overburdened by unanticipated, inefficient and/or unmanaged growth and development;
- to require that all development be pursued with strict regard for the capability of the land to support it; and
- to maintain a reasonable balance between the limitations imposed on land use in the public interest, and the rights of individual landowners.

(B) Preparation of this bylaw has been based upon surveys of existing conditions and probable future trends, with reasonable consideration given to the interests of the landowner; the Town and its residents; site conditions and physical limitations for development; and the suitability of uses in relationship to the character of particular areas of Town as defined herein, in accordance with the Fletcher Town Plan.

### Section 1.3 Applicability and Interpretation

(A) In accordance with the Act [Section 4441], no land development shall commence within the jurisdiction of the Town of Fletcher except in compliance with the regulations and requirements of this bylaw. *Any land development not specifically authorized, unless otherwise exempted under Section 6.5 or the Act, is prohibited.*

**Land Development:** the division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or 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. [24 V.S.A., Section 4303(3)]

(B) In their interpretation and application, the provisions of this bylaw shall be the minimum required. This bylaw shall not repeal, abrogate or otherwise impair other applicable regulations, permits or land use controls; however where this bylaw imposes additional or more stringent restrictions on land development, the provisions of this bylaw shall apply.

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(C) Where land development is subject to both zoning and subdivision regulations, it shall be the preferred practice to obtain approval under the Fletcher Town Subdivision Regulations prior to review under the provisions of this zoning bylaw.

**Section 1.4 Effective Date**

(A) This bylaw shall take effect, subject to town vote by Australian ballot, in accordance with the requirements and procedures outlined in the Act [Section 4404].

(B) No provision of this bylaw, or any future amendments thereto, shall be deemed to require any change in plans for a use or structure if, prior to the effective date of this bylaw or a future amendment, all applicable local and state permits have been applied for and the review of such plans, including hearings, has begun in accordance with the Act [Section 4443(c)].

**Section 1.5 Amendments**

(A) This bylaw may be amended in accordance with the requirements and procedures established in the Act [Sections 4403, 4404]. Mandatory requirements enacted by the state shall automatically become part of this bylaw.

(B) If public notice has been issued with respect to an amendment of this bylaw, permit applications shall be reviewed in accordance with the Act [Section 4443(c)].

**Section 1.6 Severability**

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

## Article II. Zoning District Provisions

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

(A) For the purposes of this bylaw, the Town of Fletcher is divided into the following zoning districts as described in Section 2.4 below, and as shown on the official zoning map: Village (VLG), Rural (RUR), Conservation (CON), Forest (FOR) and Shoreland (SHR). In addition, the Flood Hazard Area Overlay District (FLD) is established to protect public health and safety; the provisions of which, when overlain on other districts, are to be applied concurrently.

(B) The location and boundaries of zoning districts are established as shown on the official “Town of Fletcher Zoning Map,” and associated Flood Hazard Area Overlay , which are declared to be part of this bylaw, and may only be altered by adoption or amendment in accordance with the Act [Sections 4403, 4404]. The official zoning map and overlay, located in the Town Clerk’s Office and identified by the signatures of the Select Board, shall be the final authority as to the zoning status of any lands or waters in the Town.

### Section 2.2 Interpretation of Zoning District Boundaries

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

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

(B) When the Administrative Officer cannot definitely determine the location of a district boundary from the scale or dimensions given on the official zoning map and associated overlays, or by the application of the above rules, the Planning Commission and/or appropriate state official shall be consulted prior to making a final determination. Any interpretation of zoning district boundaries by the Administrative Officer may be appealed to the Development Review Board for a declaratory ruling under Section 6.7.

(C) Where a district boundary divides a lot which existed at the time of passage of this bylaw, the Development Review Board may permit, as a conditional use under Section 5.2, the extension of the regulations for either portion of the lot for a distance not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

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(D) Where a town boundary divides a lot, which existed at the time of passage of this bylaw, the standards of this bylaw shall be applied to that portion of the lot that lies within the Town of Fletcher in the same manner as if the entire lot were situated therein.

(E) For a newly created lot, which is divided by a district boundary, the requirements of the most restrictive district shall apply to the entire lot.

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

(A) All uses and structures must hereafter comply with all prescribed standards for the district in which they are located as set forth in Section 2.4, the definitions given under Article VII, and any other applicable provisions of this bylaw, unless otherwise permitted under PUD or PRD provisions under Section 5.4. Pre-existing nonconforming uses and noncomplying structures shall be regulated in accordance with Section 3.8. The standards for each district shall apply uniformly to each class of use and/or structure, unless otherwise specified in this bylaw.

(B) Overlay district standards shall be applied concurrently with the standards for the underlying district. Where the overlay district imposes more restrictive standards, the standards of the overlay district shall apply.

(C) The prescribed uses for each district are classified as “**permitted**” or “**conditional**,” and shall be regulated as follows:

- (1) Permitted uses and structures may be approved directly by the Administrative Officer, except where approval from the DRB, Development Review Board also is required;
- (2) Conditional uses and structures may be approved only upon application to the Development Review Board for conditional use review under Section 5.2.
- (3) Both permitted and conditional uses also may be subject to additional standards contained in Articles III and IV.

(D) Any use not permitted by these regulations, unless specifically exempted under Section 6.5, shall be deemed prohibited. The Development Review Board, on appeal under Section 6.7 or in considering a conditional use application under Section 5.2, may allow for a use not specifically listed within a district only upon finding that, in addition to meeting the other specific and general standards set forth in this bylaw the proposed use also meets the following standards:

- (1) such use is of the same general character as those uses listed for that district and defined under Article VII.
- (2) such use will not adversely affect adjoining properties and uses, or other uses within the District.

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

The following tables set forth the stated purpose, allowable uses, and specific standards for each district.



**Table 2.4-1 Village District (VLG)**

**(A) Description and Purpose:**

The Village District includes all lands within and adjacent to the historic settlements of Binghamville and Fletcher Center, as depicted on the official zoning map. The purpose of this district is to support village areas as the focus of social and economic activities in the community and to provide for residential, commercial and other compatible development that serves the needs of the Town. Such development should occur at densities and reflect uses which will maintain the traditional, social, and physical character of the villages, including their historic and scenic resources, and which will not exceed the capability of the Town's lands, waters, services and facilities to absorb such densities.

**(B) Permitted Uses**

Accessory Structure  
 Agriculture (see Section 6.5)  
 Agricultural Housing (see Section 4.2)  
 Bed & Breakfast  
 Day Care Center (6 or fewer children)  
 Essential Public Services  
 Forestry (see Section 6.5)  
 Group Home (6 or fewer residents)  
 Home Occupation (see Section 4.6)  
 Single Family Dwelling  
 Two Family Dwelling

**(C) Conditional Uses**

Accessory Dwelling (see Section 4.1)  
 Agribusiness  
 Agricultural Group Housing (see Section 4.2)  
 Bank  
 Campground (Excludes Primitive see Section 4.4)  
 Cemetery  
 Church/Place of Worship  
 Community Care Facility  
 Cottage Industry (see Section 4.6)  
 Cultural Facility  
 Day Care Facility (more than 6 children)  
 Educational Facility  
 Equipment Supply and Rental  
 Gasoline Station (see Section 4.5)  
 Health Clinic  
 Light Industry (see Section 4.7)  
 Lodging Establishments  
 Mixed Use (see Section 4.8)  
 Mobile Home Park  
 Motor Vehicle Service and Repair  
 Multi-family Dwelling  
 Non-profit Club  
 Park/Playground  
 Professional/Business Office  
 Recreation Facility, Indoor/Outdoor  
 Restaurant  
 Retail Commercial  
 Service Commercial  
 Public Facility/Office  
 Veterinary Clinic

**Table 2.4-1 Village District (VLG) cont.**

**(D) Dimensional Standards** (unless otherwise specified by use type):

Minimum Lot Size:	1A.		
Minimum Frontage:	100 ft.	Maximum Building Height:	35 ft.
Minimum Setbacks/Lot Lines, ROWs:	25 ft.		
Accessory Structures/Lot Lines	10 ft.		

**(E) District Standards**

The following development standards to preserve village character are strongly encouraged, and may be required under subdivision review and/or for uses subject to conditional use review under Section 5.2:

- (1) Forms and patterns of development within the Village District shall, to the extent feasible, maintain historic settlement patterns, including orientation along and setback distances from public rights-of-way. Buildings shall front towards and relate to public streets, both functionally and visually, and not be oriented toward a parking lot. Buildings also may be clustered around a common focal point, such as a green or public courtyard, provided that an appropriate visual and functional relationship with public roads is maintained.
- (2) Building fronts shall include a main entryway, pedestrian access, and appropriate front-yard landscaping.
- (3) Parking areas, to the extent feasible, shall be located to the rear or side of principal structures. Drive-through lanes and drive-up windows, where allowed, shall be located in the rear of buildings.

**Table 2.4-2 Rural Residential/Agricultural District (RUR)**

**(A) Description and Purpose:**

The purpose of this district is to provide for and protect residential, agricultural, forestry and compatible commercial and recreational uses in accordance with the Town Plan. Development densities must be in keeping with the physical capabilities of the land and the availability of planned community facilities and services. Development methods to preserve the rural character and protect the agricultural resources of these areas are encouraged. Included in this district are all lands (not in other Zoning districts) within 1500 feet of maintained public roads.

**(B) Permitted Uses**

Accessory Structure  
 Agriculture (see Section 6.5)  
 Agricultural Housing (see Section 4.2)  
 Bed & Breakfast  
 Camp/Seasonal Dwelling  
 Day Care Center (6 or fewer children)  
 Essential Public Services  
 Forestry (see Section 6.5)  
 Group Home (6 or fewer residents)  
 Home Occupation (see Section 4.6)  
 Single Family Dwelling  
 Two Family Dwelling

**(C) Conditional Uses**

Accessory Dwelling (see Section 4.1)  
 Agribusiness  
 Agricultural Group Housing (see Section 4.2)  
 Campground (see Section 4.4)  
 Cemetery  
 Church/Place of Worship  
 Contractor's Yard  
 Community Care Facility  
 Conversion/Seasonal Dwelling (see Section 3.2)  
 Cottage Industry (see Section 4.6)  
 Educational Facility  
 Electric Transmission Lines  
 Extraction/Quarrying Operation (see Section 4.12)  
 Kennel  
 Light Industry (see Section 4.7)  
 Lodging Establishments  
 Mixed Use (see Section 4.8)  
 Motor Vehicle Service and Repair  
 Multi Family for Pre Existing Structure  
 Non-profit Club  
 Public Facility/Other  
 Recreation Facility, Indoor  
 Recreation Facility, Outdoor  
 Restaurant  
 Retail  
 Salvage Yard (see Section 4.11)  
 Sawmill/Lumber Yard  
 Storage Facility  
 Veterinary Clinic  
 Public Facility/Other

**(D) Dimensional Standards (unless otherwise specified by use type):**

Minimum Lot Size:	2 A	Maximum Building Height:	35 ft.
Minimum Frontage:	125 ft.		
Minimum Setbacks/Lot Lines, ROWs:	25 ft.		
Accessory Structures/Rear & Lines	15 ft.		

**Table 2.4-2 Rural Residential/Agricultural District (RUR) cont.**

**(E) District Standards:**

The following development standards to preserve rural character and protect agricultural land and open space within this District are strongly encouraged; and may be required under subdivision review and/or for uses subject to conditional use review under Section 5.2:

- (1) The siting of structures, driveways, parking areas and utility corridors should be compatible with existing site features and topography. Roads, driveways and utility corridors to the extent feasible shall be shared; and be located to minimize visual impacts and the fragmentation of productive agricultural land.
- (2) Structures shall be clustered to the extent feasible to preserve the rural and scenic character of the site, and to maintain a well-defined edge between the built environment and adjoining open and agricultural lands. Vegetative buffer areas may be required for the screening of development and/or to minimize land use conflicts.
- (3) Development shall, to the extent feasible, be located off of productive farmland.

**Table 2.4-3 Conservation District (CON)**

**(A) Description and Purpose:**

The Conservation District includes most upland areas and other conservation lands not included in other zoning districts, as depicted on the official zoning map. Remote location, extreme topography and/or severe limitations for buildings, roads, and sewage disposal make these areas of town poorly suited for future community growth and development. Designation of this district is also specifically intended to protect the scenic and important natural resource value of such lands for forestry, ground and surface water recharge, wildlife habitat, and outdoor recreation. Due to these natural resources, limitations for development, and the cost of providing public services to these areas, only limited, low-density and compatible land development will be permitted. Included in this district are all lands, which are not in other zoning districts and further than 1500 feet from maintained (Class I, II and III) public roads.

**(B) Permitted Uses**

Accessory Structure  
 Agriculture (see Section 6.5)  
 Agricultural Housing (see Section 4.2)  
 Day Care Center (6 or fewer children)  
 Essential Public Services  
 Forestry (see Section 6.5)  
 Group Home (6 or fewer residents)  
 Home Occupation (see Section 4.6)  
 Single Family Dwelling\*

*\* Single-family dwellings on residential lots, which have received subdivision approval under Fletcher subdivision regulations, are permitted uses; all other single-family dwellings (e.g., dwellings on pre-existing lots as of the effective date of this bylaw) are conditional uses.*

**(C) Conditional Uses**

Accessory Dwelling (see Section 4.1)  
 Agricultural Group Housing (see Section 4.2)  
 Bed and Breakfast  
 Camp/Seasonal Dwelling  
 Campground (see Section 4.4)  
 Cemetery  
 Conversion/Seasonal Dwelling (see Section 3.2 )  
 Cottage Industry (see Section 4.6)  
 Electric Transmission Lines  
 Extraction/Quarrying Operation (see Section 4.12)  
 Recreation Facility, Outdoor  
 Sawmill/Lumber Yard  
 Single Family Dwelling\*  
 Telecommunications Facility (see Section 4.13)

**(D) Dimensional Standards** (unless otherwise specified by use type):

Overall Density (Yield) for the residential subdivision of land: 10 acres per dwelling unit  
 (e.g., 30 acres = 3 units)  
 [to be rounded down to nearest whole number]

Minimum Lot Size:	10 A/2 A*		
Minimum Width or Depth	200 ft.	Maximum Building Height:	35 ft.
Minimum Setback/Lot Lines, ROWs:	50 ft.		
Accessory Structures:	25 ft.		

\* Lots ten (10) acres [but no less than two (2) acres] may be subdivided and conveyed providing the overall district density is maintained through the dedication of open space on the parent (retained) parcel to achieve a density of one (1) unit per ten (10) acres, subject to subdivision review. An increase in the overall density of residential development may be permitted subject to Planned Residential Development (PRD) provisions under Section 5.4.

**Table 2.4-3 Conservation District (CON) cont.**

**E) District Standards:**

The following development standards to minimize 1) the fragmentation of conservation and resource lands within this district, including wildlife habitat, and 2) adverse impacts to the Town's natural and scenic resources, as identified in the Fletcher Town Plan are encouraged, and may be required subject to subdivision review and/or for uses subject to conditional use review under Section 5.2:

- (1) All principal and accessory structures and site improvements, shall be designed to exclude areas of steep slope greater than (>25%), shallow soils, critical habitat areas, headwaters and streams, wetlands; and to avoid or minimize adverse impacts to other significant natural, cultural or scenic features as identified in the Town Plan and/or through site investigation.
- (2) Conditions to protect identified features and adjoining uses, including but not limited to setbacks and buffers, screening, conservation easements, and/or management plans may be required as appropriate.
- (3) Roads, driveways, recreation trails, and utility corridors within this district shall, to the extent feasible, use or share existing accesses and rights-of-way; follow existing contours and linear features (e.g., tree lines, stone walls); and be located to avoid or minimize stream and wetland crossings, the fragmentation of resource and conservation land, including wildlife habitat, and adverse impacts to identified natural and scenic features.

**Table 2.4-4 Forest District (FOR)**

**(A) Description and Purpose:**

The Forest District includes all lands eleven hundred feet or more in elevation on Wintergreen Mountains, and all lands on Gilson Mountain 1400 feet elevation and above. Included in this district are the upland roadless areas on Fletcher Mountain; all lands east of Route 108, **but not including the area within 1000 feet of the road, which is in the Rural Residential / Agriculture District.** This District is established as provided by the Act [Section 4407(1)(B)] to protect remote lands which are essentially undeveloped, lack direct access to public roads, are important wildlife habitat, are currently used for commercial forestry and/or have high potential for commercial forestry use, and have severe physical limitations for development. Because environmental considerations and potential expenses for community services make such areas unsuitable for most types of development, all but uses exempted by statute (forestry and agriculture) shall be subject to conditional use review by the Development Review Board.

**(B) Permitted Uses**

Agriculture (see Section 6.5)  
Forestry (see Section 6.5)

**(C) Conditional Uses**

Accessory Structure  
Campground [limited to primitive camp sites]  
Recreation, Outdoor [limited to trails]

**(D) Dimensional Standards** (unless otherwise specified by use type):

Minimum Lot Size: 25 A

**E) District Standards:**

- (1) Access roads, corridors and recreation trails within this district, to the extent feasible, shall use or share existing accesses and rights-of-way; follow existing contours and linear features (e.g., tree lines, stone walls); and be located to avoid or minimize stream and wetland crossings, the fragmentation of resource lands and wildlife habitat, and other adverse impacts to natural and scenic resources as identified in the Fletcher Town Plan and/or through site investigation.
- (2) Conditions to protect commercial forestry uses and other identified natural and scenic features, including but not limited to setbacks and buffers, screening, conservation easements, and/or management plans, may be required as appropriate in association with subdivision review and/or uses subject to conditional use review under Section 5.2.
- (3) Structures within this district shall be sited to avoid areas of steep slope greater than 25%, shallow soils, critical habitat areas, headwaters and streams, wetlands, and other sensitive, significant or scenic natural features as identified in the Fletcher Town Plan and/or through site investigation, and shall be screened, to the extent feasible, from all public rights-of-way and vantage points.

**Table 2.4-5 Shoreland-Recreation District (SHR)**

**(A) Description and Purpose:**

The Shoreland District includes all lands within five hundred (500) feet of the shoreline of Metcalf and Halfmoon Ponds as depicted on the official zoning map. The purpose of this district is to protect those areas which have present or potential capability for water-based recreation, in accordance with the Act [Section 4411]. Development in this district must be carefully controlled to protect water quality and scenic beauty.

**(B) Permitted Uses**

Accessory Structure (to include temporary docks, and permanent stairs and landings 4 ft. or less in width within the shoreland setback area)  
 Agriculture (see Section 6.5)  
 Agricultural Housing (see Section 4.2)  
 Day Care Center (6 or fewer children)\*  
 Essential Public Services  
 Forestry (see Section 6.5)  
 Group Home (6 or fewer residents)\*  
 Home Occupation (see Section 4.6)\*

\* *Within a pre-existing or permitted single family dwelling.*

**(C) Conditional Uses**

Accessory Dwelling (see Section 4.1)  
 Agricultural Group Housing (see Section 4.2)  
 Bed and Breakfast  
 Boat Launch/Ramp/Permanent Dock  
 Boat House (less than 400 sf)  
 Camp/Seasonal Dwelling  
 Campground (see Section 4.4)  
 Conversion/Seasonal Dwelling  
 Cottage Industry (see Section 4.6)  
 Deck (detached, within shoreland setback area)  
 Recreation Facility, Outdoor  
 Retaining Wall  
 Single Family Dwelling

**(D) Dimensional Standards** (unless otherwise specified by use type):

Minimum Lot Size:	2 A		
Minimum Road Frontage :	125 ft.	Minimum Frontage/Shoreline:	100 ft.
Minimum Setback/Lot Lines, ROWs:	25 ft.	Minimum Setback/Shoreline:	40 ft.
/Accessory Structures:	10 ft.	/Wastewater Systems:	125 ft.

**E) District Standards**

- (1) In order to protect water quality, protect lakeshore wetlands, and minimize hazards associated with flooding, maintaining the forty (40) foot setback area from the shoreline as an undisturbed or managed vegetative buffer - while allowing for visual and limited physical access to the water - is strongly recommended, and may be required and/or increased as appropriate for development subject to subdivision review and/or uses subject to conditional use review under Section 5.2. No impervious surfaces, (concrete, asphalt, etc.) dredging or filling activities are permitted within this area, except as allowed for under subsection (3).
- (2) Structures within the shoreline setback and access areas subject to conditional use review [permanent docks, boat landings and ramps, decks and stairs greater than four (4) feet in width, boat houses four hundred (400) sq. ft. or less, retaining walls] may be permitted only if it is found by the Development Review Board that the structure will not adversely impact water quality.
- (3) Erosion control plans may be required as appropriate for any development within this district, which is subject to subdivision review and/or conditional use review under Section 5.2 in order to control runoff and erosion during and following construction, and to protect water quality.
- (4) No conversion of seasonal dwellings to year-round use shall be permitted within the Shoreland District except in accordance with conditional use review standards under Section 5.3, conversion provisions under Section 3.2 and wastewater disposal provisions under Section 3.15.



**Table 2.4-6 Flood Hazard Area Overlay District (FLD)**

**(A) Description and Purpose:** The Flood Hazard Area Overlay District includes identified areas subject to a one percent or greater chance of flooding in any given year (i.e., 100-year flood plains) as depicted on the Federal Insurance Administration’s current set of Flood Insurance Rate Maps (FIRMs) for the Town of Fletcher. The purpose of this district is to prevent increases in flooding caused by development in flood hazard areas, to minimize future public and private losses due to floods, and to promote the public health, safety and welfare. Designation of this district is also required for continued Town eligibility in the National Flood Insurance Program.

**Warning and Disclaimer of Liability:** This designation does not imply that lands outside of depicted flood hazard areas or land uses permitted within designated areas will be free from flooding or flood damages. These regulations shall not create liability on the part of municipality or any official or employee thereof for any damages that result from reliance upon this bylaw or any decision lawfully made thereunder.

**(B) Permitted Uses**

- Agriculture (see Section 6.5)
- Forestry (see Section 6.5)
- Recreation/Outdoor (excluding structures)

**(C) Conditional Uses**

- Boat Launch/Ramp/Dock
- Essential Public Services
- Excavation and Fill
- Recreation/Outdoor [limited to access and parking areas]
- Retaining Wall
- Substantial Improvements to Pre-Existing Structures

**(D) Dimensional Standards** (unless otherwise specified by use type):

Applicable standards of the underlying district shall apply.

**E) District Requirements:**

- (1) The mandatory provisions of State [Section 4412] and Federal law [44 CFR 60.3 and 60.6] for continued eligibility in the National Flood Insurance Program - including but not limited to associated structural standards, definitions, administration and variance requirements - are hereby adopted by reference and shall be applied to all development within this district.
- (2) Pursuant to the Act, upon receipt of an application for development in this district, the Administrative Officer shall send a copy to the Vermont Department of Environmental Conservation for review, and notify the applicant that other state or federal permits may be required. A zoning permit may only be issued after consideration of the Department’s comments, or after the expiration of thirty (30) days from the date of mailing to the Department.
- (3) Permit records shall be maintained for all development in the Flood Hazard Area District, including but not limited to a record of the elevation, relative to mean sea level, of the lowest floor (including basements) for all new or substantially improved buildings; elevations to which buildings have been flood proofed; required certifications of flood proofing, and all variance actions.

## Article III. General Provisions

### Section 3.1 Access and Frontage Requirements

(A) In accordance with the Act [Section 4406(2)], no land development may be permitted on lots in existence prior to the effective date of this bylaw, which does not have adequate means of access, including either:

- (1) frontage on a regularly maintained public road (State, Class I, II or III) or public waters; or
- (2) with the approval of the DRB, access by means of a permanent easement or right-of-way at least fifty (50) feet wide to such a public road or to public waters.

For access subject to DRB approval, the DRB may consider intended use, safety, traffic, road, and site conditions in granting or denying approval.

(B) Lots created after the effective date of this bylaw are subject to all access and/or frontage requirements contained herein, as well as applicable provisions of the Fletcher Subdivision Regulations.

(C) Shared access is encouraged and may be required subject to subdivision review and/or conditional use review under Section 5.2. Three (3) or more lots on development roads shall meet Town road standards.

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

(E) All access onto public roads, including driveways and development roads, must meet the Select Board's specifications for grade, culverts, and ditching.

(F) Development roads shall not, in any fifty (50) foot section, exceed an average grade of fifteen percent (15%) [i.e. maximum seven and a half (7.5) foot rise in any fifty (50) foot stretch]. Driveways and development roads exceeding five hundred (500) feet in length shall include, at minimum, one ten (10) foot by thirty (30) foot pull-off area.

(G) Frontage requirements for lots served by private development roads shall be the same as those for lots served by public rights-of-way.

### Section 3.2 Conversions and Changes of Use

Changes or conversions in the use of land, an existing building or other structure are subject to the provisions of this bylaw as follows:

(A) The proposed use shall be subject to all the requirements of this bylaw pertaining to such use, including but not limited to any district, parking, access and/or wastewater disposal requirements, as well as any other applicable municipal, state or federal regulations currently in effect.

(B) An accessory structure such as a garage or barn may be converted to a principal use allowed within the district in which it is located only if the structure conforms to the lot size, setbacks, parking and other requirements applicable to the proposed use.

(C) A conversion or change of use from one permitted to another permitted use which involves the creation of new floor space, an increase in sewage or water use, or changes in minimum lot size and/or dimensional requirements will require a zoning permit to be issued by the Administrative Officer under Section 6.4.

(D) A conversion or change of use from a permitted to a conditional use may be approved by the Development Review Board subject to conditional use review under Section 5.2.

(E) Where there is a conversion of use involving increased water use and wastewater generation, including but not limited to the conversion of a seasonal or accessory dwelling to a single family dwelling, the applicant must demonstrate that the wastewater system can meet wastewater provisions under Section 3.15.

(F) Changes or conversions involving non-conforming uses and/or non-complying structures also are subject to and will be reviewed under Section 3.8.

### **Section 3.3 Damaged Structures and Abandonment of Construction**

(A) No zoning permit shall be required for the stabilization of damaged structures to prevent hazards to public health and safety, and to adjoining properties; nor for the repair, restoration or reconstruction of damaged structures to the extent of their prior condition and use. Rebuilding that results in density, dimensional or use changes under the provisions of this bylaw shall require a permit.

(B) Within two (2) years after the abandonment of/or any structure which has been substantially damaged or destroyed by fire or other cause, which creates a public hazard or public nuisance, or abandonment on an uncompleted construction project, the owner shall either immediately:

- (1) obtain a new zoning permit under Section 6.4 to resume repair or construction; or
- (2) remove or bury all ruins and structural materials in accordance with all applicable state and federal regulations, restore the site to a smooth grade, and establish a ground cover sufficient to prevent erosion.

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

(A) Pursuant to the Act [Section 4406(4)], a mobile home shall be considered a single family dwelling, and shall meet the same zoning requirements applicable to single family dwellings, except when unoccupied and displayed in an approved mobile home sales establishment, or allowed as a temporary structure under Section 3.14 of this bylaw. No provision of this bylaw shall have the effect of excluding mobile homes, modular housing, or other forms of prefabricated housing from the municipality except upon the same terms and conditions as conventional housing is excluded.

(B) In addition, mobile homes may be permitted in a mobile home park subject to the provisions of Section 4.9 and applicable state regulations [24 V.S.A. Chapter 61, Subchapter 10].

### **Section 3.5 Existing Small Lots**

(A) Pursuant to the Act [Section 4406(1)] and variance provisions under Section 6.7(F), any lot in individual and separate non-affiliated ownership from surrounding properties in existence on the effective date of this bylaw may be developed for the purposes permitted in the district in which it is located, even though not conforming to the minimum lot dimensional requirements, if such lot is not less than one-eighth (1/8) acre in area with a minimum depth or dimension of forty (40) feet. In such cases the Development Review Board may grant a variance, providing that the provisions of this bylaw relating to adequate access (Section 3.1) and wastewater disposal (Section 3.15) are met.

### **ARTICLE III. GENERAL PROVISIONS**

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(B) Pre-existing undeveloped small lots in affiliated or common ownership or such lots which subsequently come under common ownership with one or more contiguous lots, shall be deemed merged with the contiguous lots for the purpose of this bylaw, However, such lots shall not be deemed merged ,and may be separately conveyed, if all of the following are met:

- (1) the lots are conveyed in their pre-existing, nonconforming configuration; and
- (2) on the effective date of this bylaw, each lot had been developed with a water supply and wastewater disposal system; and
- (3) at the time of transfer, each water supply and wastewater system is functioning in an acceptable manner;
- (4) the deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems in case a wastewater system fails, pursuant to the Act [Section 4406(1)(A)(iv)].

#### **Section 3.6 Height of Structures**

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

- (1) agricultural structures in accordance with the Act [Section 4495];
- (2) church steeples, spires and belfries;
- (3) accessory structures associated with residential use which are less than fifty (50) feet in height, as measured from the lowest grade at ground level to the top of the structure, including antennas, satellite dishes less than three (3) feet in diameter, flag poles, ornamental cupolas, chimneys, wind generators with blades less than twenty (20) feet in diameter, and rooftop solar collectors.

(B) The Development Review Board may permit structures in excess of thirty-five (35) feet in height subject to conditional use review under Section 5.2, provided that:

- (1) the structure does not constitute a hazard to public safety, or to adjoining properties;
- (2) the portion of the structure above thirty-five (35) feet shall remain unoccupied except for normal maintenance;
- (3) all required front, side and rear yard setbacks are increased by, at minimum, one (1) foot for each foot of height over thirty-five (35) feet;
- (4) the structure is not to be used for advertising purposes;
- (5) access to the structure, particularly for climbing, is restricted;
- (6) adequate fencing and screening are provided as appropriate;
- (7) lighting, if deemed necessary by the Board in accordance with state and federal regulations, shall be restricted to the minimum required for security and safe operation (see Section 3.10); and.
- (8) all applicable performance standards under Section 3.12 are met.

**Section 3.7 Lot, Yard and Setback Requirements**

(A) There shall be only one principal structure or use per lot, unless otherwise specifically approved as part of a PUD under Section 5.4, or as a mixed use under Section 4.8.

(B) All structures shall be set back at least twenty-five (25) feet from year-round streams, ponds, and wetlands unless otherwise specifically required elsewhere in this bylaw, or as provided for under subdivision review, conditional use review under Section 5.2, or in accordance with a Conditional Use Determination (CUD) issued by the State. For development subject to subdivision review and/or conditional use review, minimum required setback distances may be increased as appropriate based on site, slope or soil conditions and the nature of the proposed use, and/or a protective, vegetated buffer may be required in order to prevent runoff and erosion, and to protect water quality.

(C) No lot shall be so reduced in size that the area, setback, or other dimensions are smaller than those prescribed in this bylaw, except as permitted for PUDs or PRDs under Section 5.4.

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

(E) Any interior lot which does not have frontage on a public or private development road shall meet minimum yard requirements for all yards equal to the side yard setback distance for lots in that district.

**Section 3.8 Non-Complying Structures and Non-Conforming Uses**

(A) **Non-complying Structures.** Any pre-existing structure or part thereof which is not in compliance with regulations concerning density, set backs, height, lot size or other dimensions, or which does not meet other applicable requirements of this bylaw, shall be deemed a non-complying structure. In accordance with the Act Section [4408], any non-complying structure existing on the effective date of this bylaw may be allowed to continue indefinitely, but shall be subject to the following provisions. A non-complying structure:

- (1) may undergo normal repair and maintenance without a permit provided that such action does not increase the degree of non-compliance.
- (2) may be restored or reconstructed after damage from any cause provided that the intended use of the structure is a permitted use within the district in which it is located or a non-conforming use subject to the provisions of subsection (B), and that the reconstruction does not increase the degree of non-compliance which existed prior to the damage.
- (3) may be enlarged or expanded, upon approval of the zoning administrator, provided that the intended use of the structure is a permitted use within the district in which it is located or a non-conforming use subject to the provisions of subsection (B), and that the expansion does not increase the degree of non-compliance (e.g., the footprint or height of the structure located within setbacks).
- (4) may, subject to conditional use review under Section 5.2, undergo alteration or expansion which would increase the degree of non-compliance solely for the purpose of meeting mandated environmental, safety, health or energy codes which would allow for continued use of the non-complying structure.

(B) **Non-Conforming Uses.** Any pre-existing use of land, or use of a structure, which does not conform to the zoning district allowable use provisions in Article II (i.e., could not now be established in the district in which it is located) shall be deemed a non-conforming use. In accordance with the Act [Section 4408], any non-conforming use, which exists on the effective date of this bylaw, may be continued indefinitely, but shall be subject to the following provisions. A non-conforming use:

- (1) shall not be re-established after being abandoned or discontinued for a period of twenty four (24) months, or after being changed to a conforming use, regardless of the intent to re-establish such prior use;
- (2) shall not be restored or continued after damage from any cause unless such non-conforming use is carried on uninterrupted in the undamaged part of the structure; or the non-conforming use is reinstated by the commencement of construction within eighteen (18) months of such damage and the construction or restoration of the structure is completed within two (2) years. Otherwise the non-conforming use shall be deemed to have been discontinued;
- (3) shall not be changed to another non-conforming use;
- (4) may be moved, extended or enlarged, subject to conditional use review under Section 5.2, only if the Development Review Board finds that such movement, extension or enlargement will not exceed twenty-five (25) percent of its size or extent as of the effective date of this bylaw, and does not increase the degree of non-compliance under subsection (A).

### **Section 3.9 Open Storage of Junk and Vehicles**

(A) The dumping, burying, disposing, or open burning of, refuse, scrap metal, rubber, or similar materials is prohibited except in salvage, disposal or recycling facilities specifically permitted for such use under applicable municipal and state regulations.

(B) In any district, junk, salvaged materials, or more than two (2) motor vehicles or portions thereof which are non-operating and not registered with the state, with the exception of vehicles or materials used in farming or forestry operations, shall be stored in an enclosed area or in an area concealed from public roads [also See Salvage Yards, Section 4.11].

### **Section 3.10 Outdoor Lighting Standards**

(A) **Intent.** The residents of the Town of Fletcher strongly value the town's rural character, as noted in the Fletcher Town Plan, including their ability to clearly view and enjoy the night sky. It is also recognized that, while some outdoor lighting may be necessary for security and safe operation, inappropriate or poorly designed or installed lighting can create unsafe conditions and a nuisance for adjoining property owners, cause sky glow which obstructs night views of the sky, and result in the unnecessary use of electric power.

(B) **General Standards.** To ensure appropriate lighting while minimizing its undesirable effects, the following general standards applying to all outdoor lighting in the Town of Fletcher, with the exception of temporary holiday lighting, are established:

- (1) All outdoor lighting shall be kept to the minimum required for safety, security and intended use, consistent with the character of the neighborhood in which it is located.

(2) Permanent outdoor lighting fixtures shall not direct light beyond the boundaries being illuminated or onto adjacent properties, or public waters, shall minimize glare, and not result in excessive lighting levels which are uncharacteristic of a rural area. Lighting fixtures shall be cast downward and/or designed to minimize glare. Such fixtures may include recessed, shielded or cutoff fixtures, and/or low luminance lamps (e.g., 150 watts or 2,000 lumens).

(3) The use of timers, dimmers, and/or sensors wherever practicable is encouraged on outdoor lighting fixtures to reduce energy consumption and eliminate unneeded lighting.

(C) **Conditional Use Lighting Standards.** For lighting installations associated with uses subject to conditional use review under Section 5.2, the Development Review Board may also require the following:

(1) Information regarding exterior lighting fixtures, including fixture type, mounting location and height, illumination levels and distribution, and color shall be submitted as part of the conditional use application. A lighting plan, prepared by a qualified engineer or lighting expert, may be required as appropriate for larger projects.

(2) The burial of electrical service to outdoor lighting fixtures.

(3) The use of street or security or lighting only if unusual or hazardous conditions require it. Security lighting, where deemed necessary by the Development Review Board, shall be shielded and aimed so that illumination is directed only on to the designated area and not cast on other areas.

(D) The Development Review Board may modify or waive the requirements of this section under conditional use review under Section 5.2, or on appeal under Section 6.7, if it finds that in so doing it will jeopardize the intent of these regulations under subsection (A), general provisions under subsection (B), or such a modification or waiver is required to meet an overriding public purpose.

### **Section 3.11 Parking, Loading and Service Area Requirements**

(A) **Parking.** Adequate provision shall be made so that normal vehicular traffic associated with any use may be parked off of public roads and rights-of way. Spaces shall be provided as follows whenever any new use is established, or when the present use is expanded or changed:

(1) An off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley, and maneuvering room. Required parking spaces should have a minimum width of nine (9) feet, and a minimum length of twenty (20) feet. For purposes of initial calculation, an off-street parking space with access and maneuvering room may be estimated to be three hundred (300) square feet.

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- (2) A minimum number of parking spaces as determined by proposed use shall be provided in accordance with the requirements listed in Table 3.1:

<b>Table 3.1 Minimum Off-Street Parking Requirements</b>	
<b>Use</b>	<b>Parking Spaces</b>
Residential	2 per dwelling unit
Accessory dwelling	1 per dwelling unit
Home Occupation/Cottage Industry	2 per dwelling unit, and 1 per additional employee
Bed and Breakfast	2 per dwelling unit, and 1 per lodging room
Home Day Care	2 per dwelling unit, and 1 per additional employee
School, Child or Day Care (6 or more children)	3 spaces per 10 children enrolled at the facility
Medical Clinics/Offices	6 per professional
Lodging (hotel, motel, inn, lodge)	1 per lodging unit, and 1 per employee for the largest shift
Care Facilities (6 or more residents)	1 per 4 beds, and 1 per employee for the largest shift
Clubs	1 per 4 members
Public assembly (churches, auditoriums, etc.)	1 per 4 seats or 200 sq. ft. of gross floor area, whichever is greater
Professional, Government, Business Offices	1 per 250 sq. ft. of gross floor area
Personal Services	1 per employee, and one per customer service station
Commercial/Retail Establishments	1 per 250 sq. ft. of gross floor area
Restaurants/Eating Establishments	1 per 4 seats, and one per employee for the largest shift
Industry	1.25 per employee, for the largest shift
Mixed/Multiple Use	total required per each individual use
Gas or Motor Vehicle Service Station	5 per service bay
Storage, warehouses, other non-public uses	1 per 1,000 sq. ft. of gross floor area, and 1 per employee
Unspecified	As determined by the Development Review Board under conditional use review

- (3) The parking of motor vehicles may be allowed in setback areas unless specifically prohibited under other provisions of this bylaw, or as otherwise required under conditional use review.
- (4) Parking areas intended for commercial and/or public use which are adjacent to residential uses shall be set back at least twenty-five (25) feet from the nearest property line.
- (5) The Development Review Board under conditional use review may require all non-residential parking areas to be located to the side or rear of buildings, and screened or otherwise visually hidden to the extent feasible as viewed from public highways and from adjoining residential areas.



- (6) All off-street parking areas in excess of eight (8) parking spaces shall provide landscaped areas, which at minimum are equal to a least ten (10) percent of the total parking area, unless otherwise approved by the Development Review Board under conditional use review. Landscaped areas shall be integrated into the parking lot design, and be regularly maintained.

**(B) Loading and Service Areas.** Where a proposed development will require the frequent or regular loading or unloading of goods, sufficient on-site service areas shall be provided. Service areas may also be required for emergency vehicles, waste disposal and collection, bus, taxi, or van service, and other purposes as may be necessitated by the proposed use. All loading and service areas shall be clearly marked, and located in such a manner so that parked vehicles will not block or obstruct sight visibility at intersections or to or from any internal road or access.

**(C) Waivers.** The Development Review Board may require additional parking and loading spaces, subject to conditional use review under Section 5.2, if it is found that the minimum standards are not sufficient to accommodate the intended use. The Development Review Board may also, subject to conditional use review or on appeal under Section 6.7, waive on-site parking, loading and/or service area requirements based on the Board's determination under one or more of the following provisions, that, due to circumstances unique to the development, the strict application of these standards is unnecessary:

- (1) green areas are set aside and maintained as open space for future conversion to parking, loading or service areas in the event that the space(s) initially permitted are deemed inadequate to meet demonstrated need; and/or
- (2) shared use of parking, loading and/or service areas on the same or contiguous lots by two or more establishments is proposed; and/or
- (3) sufficient off-site public parking exists within reasonable walking distance of the establishment; and/or
- (4) the proposal is for the development of multi-family, elderly and/or affordable housing units.

### **Section 3.12 Performance Standards**

The following standards of performance must be met and maintained by all uses in all districts. In determining ongoing compliance, the burden of proof shall fall on the applicant, property owner, and/or all accessors and assigns.

- (A) No use of land or structures, (with exception of agriculture and forestry subject to subsections (B) and (C)), shall:
- (1) emit odors, noise, dust, dirt, noxious smoke, or gases, glare or vibrations or other disturbances beyond the property line which are offensive and uncharacteristic of the area; which adversely affect the reasonable use of adjoining or nearby properties; which cause damage to any property, business, or vegetation; or which endanger the health, comfort, safety or welfare of the neighborhood;
  - (2) present an unreasonable risk as to fire, explosion or safety which endangers the public or neighboring properties, or which results in an increased burden on municipal facilities and services; or
  - (3) cause sewage, septage, or other harmful wastes to be discharged into any watercourse, wetland, or aquifer or into any waste disposal system beyond its permitted design capacity. All local, state and federal health standards shall apply as appropriate.
- (B) Agricultural operations shall at minimum observe Accepted Agricultural Practices (AAPs) as defined and administered by the Vermont Department of Agriculture (see Section 6.5).

(C) Forestry operations shall at minimum observe Acceptable Management Practices (AMPs) as defined and administered by the Vermont Department of Forests, Parks and Recreation (see Section 6.5).

**Section 3.13 Signs**

(A) **Exemptions.** A zoning permit shall be required prior to the erection, construction or re-placement of any outdoor sign, except for the following, which shall be exempt from this bylaw unless otherwise specifically prohibited under subsection (B):

- (1) Signs erected by the state or town on public roads.
- (2) Non-advertising signs placed for directional, safety or public service purposes.
- (3) One residential sign per dwelling unit identifying the occupant, not to exceed two (2) square feet in area; and residential flags or banners intended solely for ornamental or non-advertising purposes.
- (4) Signs relating to trespassing and hunting.
- (5) Temporary for sale signs auction, lawn or garage sales or real estate not to exceed four (4) in number or fifteen (15) square feet in total area, which shall be removed immediately following the event or sale.
- (6) Temporary election signs to be posted and removed in accordance with state law.
- (7) Temporary signs or banners advertising public or community events, to be displayed in designated locations on town property with the prior permission of the Select Board, which shall be removed immediately following the event.
- (8) Signs or bulletin boards incidental to places of worship, schools, libraries or public facilities, not to exceed one per establishment, sixteen (16) square feet in total area, or six (6) feet in height above ground level
- (9) Unlit signs associated with farm operations, not to exceed one (1) per establishment or sixteen (16) square feet in area.
- (10) Unlit wall-mounted or freestanding signs advertising a home occupation, home based business or home day care facility, not to exceed one (1) per residential dwelling or three (3) square feet in area.
- (11) On-premise historic or landmark signs, not to exceed one (1) one in number or six (6) square feet in area.
- (12) Wall murals intended solely for artistic, non-advertising purposes.
- (13) Window signs which do not exceed thirty (30) percent of the windowpane area.

(B) **Prohibited Signs.** The following signs shall be prohibited in all districts:

- (1) Signs, which impair highway safety.
- (2) Signs, which are animated, flashing, made of reflective material or are intermittently or internally illuminated.
- (3) Signs painted on or attached to rock outcrops, trees, or similar natural features.
- (4) Advertising signs or banners attached to flag poles, utility poles or town sign posts.
- (5) Roof and wall signs which extend above the eave.
- (6) Permanent signs which project over public rights-of way or property lines.
- (7) Signs identifying businesses or uses, which are no longer in existence.
- (8) Signs located on motor vehicles when the display of such a sign is the primary purpose of the vehicle.
- (9) Signs identifying residential subdivisions and/or developments.
- (10) Off-premises signs, except for those, which conform to state laws.

(C) **General Standards.** All signs, other than those specified under subsection (A), shall require a zoning permit issued by the Administrative Officer in accordance with the following requirements pertaining to all signs:

- (1) Illuminated signs shall be lighted so as not to produce undue glare, hazards, or distractions. A constant, shielded light source may be used for indirect lighting, provided that the lighting is directed

only on the sign surface, preferably from above, and does not adversely affect neighboring properties, rights-of-way, or motor traffic. The light source shall not be visible from adjacent properties or roads. No sign shall be illuminated during hours when the premises are not occupied or open for business.

- (2) No sign shall contain string lighting, pennants, or similar attention gathering devices, nor may they contain or support any device capable of emitting noise.
- (3) Free-standing signs, as measured from the average grade of the ground to the top of the supporting structure, shall not exceed ten (10) feet in height.
- (4) Notwithstanding district setback requirements for structures, freestanding signs may be placed at the edge of the highway right-of-way; however, such signs shall not be located within 20 feet of adjacent private property, unless combined on the same stand with the sign of an adjacent business. (Obstruct sight distances or travel lanes.)
- (5) Projecting signs shall not exceed six (6) square feet in area or extend over public rights-of-way.
- (6) All permitted signs shall be maintained in a secure and safe condition. If the Administrative Officer is of the opinion that a sign is not secure, safe, or in a good state of repair, a written warning and/or notice of violation under Section 6.8 may be issued with a request that any defect in the sign is corrected immediately.

(D) **Specific Standards.** The following sign provisions apply to specific uses as follows:

- (1) Individual business, mixed use or commercial structures are allowed a maximum of two (2) fixed signs, including one (1) freestanding and one (1) wall or projecting sign, two (2) wall signs, or one (1) wall and one (1) projecting sign. No one sign shall exceed sixteen (16) square feet in area. One (1) moveable “sandwich board” sign advertising specials or events, not exceeding twelve (12) square feet in area or four (4) feet in height, and set back from road rights-of-way and property lines, may also be permitted.
- (2) Individual industrial, manufacturing, warehouse and storage uses are allowed one (1) freestanding, wall or projecting sign, not to exceed sixteen (16) square feet in total area.
- (3) Multiple use subdivisions or PUDs, including commercial shopping centers, and business, manufacturing or industrial parks, are allowed one (1) freestanding sign for the entire development, to be located near the principal entrance and not to exceed twenty-four (24) square feet in total area unless otherwise permitted under conditional use review. In addition, each individual business is allowed one (1) wall or projecting sign, not to exceed twelve (12) square feet in area, announcing the business establishment.
- (4) Gasoline or motor vehicle service stations, in addition to the signs allowed for business under (1), are allowed to have either one (1) pricing sign which does not exceed twelve (12) square feet in area, or pump-top pricing signs, each not to exceed two (2) square feet in area.
- (5) On any commercial property being sold or developed one (1) temporary real estate or construction sign may be permitted, not to exceed sixteen (16) square feet in area or ten (10) feet in height, providing such sign is promptly removed immediately following sale or completion of construction.

(E) **Exceptions.** Proposed signs, which may not otherwise meet the requirements of this Section, may be approved by the Development Review Board subject to conditional use review under Section 5.2 and a finding that the sign will contribute to the character of the neighborhood and community.

(F) **Measurement.** When computing the total number of signs or permissible sign area for any use, the following shall apply:

- (1) Existing signs, except for those specifically exempted under Subsection (A), shall be included in the calculation of the total number and area;
- (2) Freestanding and projecting signs printed back-to-back (having two visible sides) shall be counted as one sign, and the area shall be computed for one side only;
- (3) Signs consisting of freestanding letters or numerals shall include any intervening spaces (the entire message area), in the calculation of total sign area;
- (4) Sign area measured shall be the area included within the extreme limits of the sign surface, excluding supporting structures.

### **Section 3.14 Temporary Uses and Structures**

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

### **Section 3.15 Wastewater Disposal**

(A) **Purpose.** The following provisions for wastewater disposal are intended to prevent the creation of health hazards, the surfacing of sewage, and the contamination of drinking water, groundwater, and surface water; to ensure adequate drainage for the proper functioning of disposal systems; and to ensure that such systems are designed and installed in a manner which will promote sanitary and healthful conditions.

(B) **Applicability.** No building or structure generating wastewater shall be erected, altered, or converted from seasonal to year-round use, or to another use, unless an adequate wastewater disposal system is provided in compliance with all applicable state and municipal regulations. This includes but may not be limited to:

- (1) all new seasonal, accessory or single-family dwellings, multi-family dwellings, commercial or industrial buildings;
- (2) alterations to existing structures which would increase the generation of wastewater, including but not limited to the addition of bedrooms, accessory apartments, and/or plumbing and running water to structures that previously had none; or
- (3) changes of use, including but not limited to the conversion of seasonal dwellings to year-round use, or the conversion of single-family residential structures to multiple family, commercial or industrial use.

These provisions shall not apply to the normal maintenance of existing wastewater disposal systems, including periodic pumping and cleaning; or failed systems regulated under the Town of Fletcher's health regulations; nor shall they apply if the structure is to be connected to an approved public or community system.

(C) **Standards.** Wastewater disposal systems, as of the effective date of this bylaw, shall be designed, inspected and/or installed by a qualified individual licensed or certified by the state (i.e., a licensed professional engineer or a certified site technician) in accordance with the following provisions:

- (1) All new or expanded wastewater systems shall be designed and installed in accordance with applicable specifications and criteria in the Vermont “Environmental Protection Rules” as amended.
- (2) Existing systems subject to the provisions of this Section shall be inspected by a qualified individual licensed or certified by the state to determine whether the system is functioning properly and has the capacity to adequately treat the increased flow expected from the proposed alteration or change in use. Alternatively, the disposal system must be upgraded or replaced so as to comply with the Vermont Environmental Protection Rules as most recently amended.

(D) **Application.** Applications for wastewater disposal permits shall contain the following information, supplied by the applicant:

- (1) a description and plans for the proposed system or system upgrade, including the location of existing, proposed and/or replacement system components and leach field areas, as prepared by a qualified individual licensed or certified by the state;
- (2) results of soil testing, including soil conditions, depths to bedrock or seasonal high water tables, and percolation rates, conducted by a qualified individual licensed or certified by the state sufficient to determine compliance with the Environmental Protection Rules; or, for an existing system, written and signed certification from a qualified individual licensed or certified by the state that the system is functioning properly and has the capacity to handle the anticipated increase in flow;
- (3) for multi-family, commercial and industrial properties, an approved water supply and wastewater disposal permit issued by the state;
- (4) for off-lot wastewater systems, a copy of the easement to be conveyed to the permittee;
- (5) any additional information, which may be required by the Administrative Officer to determine compliance with this Section.

(E) **Wastewater Disposal Permit.** A wastewater disposal permit shall be issued by the Administrative Officer in association with a zoning permit only s/he determines, in consultation with the Health Officer, that the wastewater system design will comply with the requirements of subsection (B) and any other applicable provisions this bylaw. The location and design of all permitted wastewater disposal systems shall be kept on file in the Town Clerk’s Office.

(F) **Certification of Inspection and Installation.** Prior to the issuance of a Certificate of Occupancy by the Administrative Officer under Section 6.4 (D)(4), the applicant shall submit written and signed certification from the system designer, or other qualified individual licensed or certified by the state, that the system as inspected has been installed in accordance with the design as submitted to and approved by the Town. Any minor modifications to the system as approved shall be noted in writing; major modifications to the system as approved will, at the discretion of the Administrative Officer in consultation with the Health Officer, require the issuance of new wastewater permit. The Health Officer, or duly authorized representative, shall be given notification at least forty-eight (48) hours in advance during the normal work week to exercise the option of inspection prior to the disposal system being covered with earth.

(G) **Warning and Disclaimer of Liability.** Approval of any wastewater disposal system design and installation by the granting of a wastewater disposal permit and the issuance of a certificate of occupancy shall not imply that the approved system will be free from malfunction; the required percolation and soil depth tests may not reveal all soil characteristics affecting operation. Further, unusual precipitation, the disposal of some types of chemicals, and/or improper system maintenance which are beyond the control or responsibility of the Town may affect system operation. The provisions of this section shall not create liability on the part of the Town or any Town official or employee for sewage system malfunction.

## Article IV. Specific Use Provisions

### Section 4.1 Accessory Dwellings

(A) There shall be only one (1) principal structure per residential lot. One (1) accessory apartment, per statute [Section 4406(D)], or other attached or detached accessory dwelling for use as a guest house or cottage may be permitted for a residential lot on which a single family dwelling is the principal use, subject to conditional use review under Section 5.2, and the following provisions:

- (1) The residential lot must meet all current density, dimensional and other requirements for the district in which it is located.
- (2) The accessory dwelling shall meet all setback requirements for the district in which it is located; or for an accessory dwelling attached to a non-complying structure, the accessory dwelling shall in no way increase the degree of non-compliance under Section 3.8.
- (3) Floor space shall not exceed eight hundred (800) square feet.
- (4) The applicant shall demonstrate that adequate water supply, septic system (Section 3.15) and off-street parking (Section 3.11) capacities exist to accommodate the residents of the accessory dwelling.
- (5) The permit for the accessory dwelling shall clearly state that the dwelling is an accessory structure to the single-family residence and shall be retained in common ownership. An accessory dwelling may only be subdivided and/or converted for sale or use as a single family dwelling if it meets all existing municipal and state regulations applying to single family dwellings, including all density, dimensional and other requirements for the district in which it is located. Separate permits shall be required prior to subdivision, sale, and/or conversion.

### Section 4.2 Agricultural Housing

Agricultural housing which is intended solely to house farm workers and their families or seasonal or migrant agricultural workers, and is therefore accessory to the principal agricultural use of a property, may be approved subject to the following provisions:

(A) Up to two (2) additional single family dwellings, not including the farm residence, may be approved as permitted uses under Section 6.4 in designated districts, subject to the following requirements:

- (1) Occupancy is restricted to farm workers and their families;
- (2) The maximum residential lot set aside (not to be considered a subdivision) shall be the minimum lot size required for the district in which it is located, and shall meet all other district requirements pertaining to single family dwellings, as well as all other applicable state and local regulations.
- (3) Adequate water supply, septic system (in accordance with Section 3.15), and off-street parking capacity (in accordance with Section 3.11) exist to accommodate residents.
- (4) The permit shall clearly state that this dwelling is an accessory to the principal agricultural use of the property and shall be retained in common ownership for this purpose. An accessory agricultural dwelling may only be subdivided and/or converted for sale or use as a single family dwelling separate from the agricultural use if it meets all current local and state regulations and bylaws applying to single family dwellings, including all density, dimensional and other requirements of the district in which it is located. Separate permits shall be required prior to sale and/or conversion.

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(B) Group housing for seasonal or migrant agricultural workers may be approved in designated districts subject to conditional use review under Section 5.2 and the following requirements:

- (1) Group housing shall be located on a maximum set aside (not to be considered a subdivision) of two (2) acres, and shall meet all other district requirements for group or multi-family housing for the district in which it is located, as well as all other applicable local and state regulations.
- (2) The housing shall be located to minimize adverse impacts to the farming operation, primary agricultural soils, scenic views and open space, and neighboring properties. Landscaping and screening may be required as appropriate.
- (3) Occupancy is restricted to farm workers and their families.
- (4) Adequate water supply, septic system (in accordance with Section 3.15), and off-street parking capacity (in accordance with Section 3.11) exist to accommodate residents of the accessory dwelling.
- (5) The permit shall clearly state that this housing is accessory to the principal agricultural use of the property and shall be retained in common ownership for this purpose. Such housing may only be subdivided and/or converted for sale or use as a multi-family dwelling separate from the agricultural use if it meets all current local and state regulations applying to multi-family dwellings, including all density, dimensional and other requirements for the district in which it is located. Separate permits shall be required prior to sale and/or conversion.

**Section 4.3 Campers [Recreation Vehicles]**

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

- (1) Units are permitted to be parked in approved campgrounds, sales establishments and, for temporary periods, on construction sites (see Section 3.14).
- (2) One (1) camper may be permanently parked on a residential lot provided that it is not located within required setbacks for the district in which it is located; not occupied for dwelling purposes for more than one hundred fifty (150) days per calendar year; and is not hooked up to the residential water or septic system.
- (3) Any camper used for living quarters for more than one hundred fifty (150) days per calendar year, or is sited so as not to be readily moveable, shall be deemed a dwelling and shall be subject to all zoning regulations applicable to accessory or single family dwellings (see Section 4.1).

(B) Any wastewater or sewage generated by a camper shall be disposed of off-site in accordance with all applicable state and federal regulations unless it is tied into a septic system already located on the property.

**Section 4.4 Campgrounds**

New campgrounds, and any addition or alteration to an existing campground shall be subject to conditional use review under Section 5.2 and the following regulations:

- (1) A minimum of five (5) acres is required for new campgrounds, with at least twenty (20) percent of the total area to be set aside for recreation and open space.



- (2) All campgrounds shall meet minimum setback requirements for the districts in which they are located. A strip of land at least twenty-five (25) feet wide shall be maintained as a landscaped area abutting all property lines and rights-of-way. No campsite, parking area or building shall be located in this buffer area. The Development Review Board may reduce or eliminate this landscaped area provision if such a modification or waiver will make it possible to preserve a scenic view, providing that privacy for adjacent property owners is maintained. Additional landscaping and fencing along property boundaries also may be required as appropriate for screening, security, and to provide privacy.
- (3) Except for undeveloped, primitive camping areas, campgrounds shall provide for potable water, lavatory, shower and toilet facilities sufficient to accommodate the number of proposed campsites. For primitive camping areas it shall be demonstrated to the Board’s satisfaction that acreage and setbacks are adequate to support the proposed level of use, and to avoid any adverse impacts to water quality, natural areas, and adjoining properties and uses.
- (4) A campground shall provide adequate access and parking for each campsite. Collector roads within the campground shall meet the following minimum standards:

<b>Table 4.1 Campground Road Standards</b>		
	<b>One-way Roads</b>	<b>Two-way Roads</b>
Right-of-Way Width	18 feet	33 feet
Gravel Depth	12 inches	12 inches
Gravel Width	10 feet	20 feet

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

**Section 4.5 Gasoline Stations**

Gasoline stations may be permitted in designated zoning districts subject to conditional use review under Section 5.2 and the following additional provisions:

- (A) A new gasoline station shall not be located within three hundred (300) feet of any lot occupied by a school.
- (B) The following density and dimensional requirements shall apply:
  - (1) minimum lot size: 2 acres
  - (2) minimum lot frontage: 200 feet
  - (3) minimum lot depth: 200 feet
- (C) Garages, accessory structures, pumps, lubricating and other service equipment shall be set back at least fifty (50) feet from road rights-of-way, and front, side and rear lot lines. All fuel and oil shall be stored at least thirty-five (35) feet from all property lines.

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- (D) All automobile parts and dismantled vehicles are to be stored within an enclosed building or otherwise screened from view.
- (E) There shall be no more than two (2) access driveways. No access or curb cut shall exceed forty (40) feet in width.
- (F) Canopies, if deemed necessary, shall be limited to the minimum area required for adequate pump and apron coverage, and the minimum height required to meet applicable state and federal safety requirements.
- (G) Lighting levels on station aprons, under canopies and in associated parking areas shall be the minimum required for intended activities. The lighting of such areas shall not be used for advertising or to attract attention to the business. Lights shall not be mounted on the top or sides of canopies; and the sides of canopies (fascias) shall not be illuminated. Light fixtures mounted on canopies shall either be recessed so that the lens cover is flush with the bottom surface (ceiling) of the canopy; or for indirect lighting, mounted and shielded so that direct illumination is focused exclusively on the underside of the canopy. Outdoor lighting shall also meet applicable lighting standards under Section 3.10.
- (H) Signs shall meet all requirements of Section 3.13. No signs may extend beyond the pumps.
- (I) Service station siting, design and layout should be compatible with the character of the neighborhood. A landscaped area shall be maintained at least five (5) feet in depth along all road frontage, excluding designated access areas. Additional curbing, landscaping and screening, and pedestrian walkways may be required as appropriate.
- (J) Gasoline stations which also include retail sales unrelated to motor vehicle service, maintenance or repair (e.g., food, convenience items) shall be reviewed as a mixed use (see Section 4.8) within designated zoning districts, and as such shall be required, in addition, to meet all zoning provisions pertaining to such retail uses for the district in which they are located, including but not limited to additional acreage, frontage, and/or parking requirements.

**Section 4.6 Home Based Businesses [Home Occupations, Cottage Industries]**

- (A) **Home Occupations.** In accordance with the Act [Section 4406(3)] 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. Home occupations, as distinguished from cottage industries under subsection (B), are allowed as an accessory use in all districts where residential uses are allowed, subject to the following provisions:
- (1) The home occupation shall be clearly incidental and secondary to the residential use of the property, and shall be conducted wholly within the principal dwelling or accessory structures;
  - (2) The home occupation shall be carried out on-site by members of the family residing in the dwelling unit, and no more than two (2) additional, non-resident full-time equivalent employees.
  - (3) No traffic, which would be uncharacteristic of the neighborhood, or additional wastewater, shall be generated.
  - (4) Exterior displays of goods and wares, exterior storage of materials, and other exterior indications of the home occupation, which does not substantially alter the residential character of the principal or accessory structures shall be permitted.

- (5) Adequate off street parking shall be provided to accommodate residents and non-resident employees, in accordance with Section 3.11 .
- (6) The home occupation shall have no advertised or published regular hours when the premises are open to the public. One unlit exterior sign is permitted in accordance with Section 3.13.
- (7) The home occupation shall be subject to all performance standards under Section 3.12.

(B) **Cottage Industries.** Cottage industries or home-based businesses, as distinguished from Home Occupations under subsection (A), may be permitted in designated zoning districts subject to conditional use review under Section 5.2 and the following additional provisions:

- (1) The business owner shall reside on the lot.
- (2) The business shall be carried on within the principal dwelling unit and/or accessory structure(s), and shall not occupy more than four thousand (4,000) square feet in gross floor area.
- (3) The residents of the dwelling unit, and no more than four (4) non-resident, full-time equivalent employees may be employed on-site at any one time.
- (4) The business shall not exceed fifteen (15) round trips per day.
- (5) Adequate off-street parking shall be provided for all residents and employees in accordance with Section 3.11.
- (6) There shall be no storage of hazardous waste or materials on-site unless stored in an approved enclosure; fuel storage shall be limited to that needed for heating, and the operation of equipment and vehicles associated with the business.
- (7) The business shall be visually compatible with neighboring lots and uses; landscaping and screening may be required as appropriate. In addition, screening may be required for any outdoor storage of materials including building or construction materials, unregistered vehicles or heavy equipment..
- (8) On-site wholesale and/or retail sales shall be limited to products produced or assembled on premises.
- (9) The business shall not result in hazards to public safety and welfare or to neighboring properties, and shall be subject to applicable lighting standards under Section 3.10 and performance standards included under Section 3.12. Conditions may be placed on the hours of operation as appropriate.
- (10) If the business generates wastewater in excess of that permitted for residential use, a wastewater permit shall be required in accordance with Section 3.15.
- (11) The permit for a cottage industry shall clearly state that the industry is a home-based business, which is accessory to the principal residential use, and shall be retained in common ownership and management. A cottage industry may be subdivided and/or converted for sale or use apart from the residential use only if it meets all current municipal and state regulations and bylaws pertaining to such use (see Light Industry, Section 4.7), including all density, dimensional, and other requirements for the district in which it is located. Separate permits shall be required as appropriate prior to subdivision, sale and/or conversion.

**Section 4.7 Light Industry**

(A) Light Industry [as distinguished from cottage industries under Section 4.6(B)] may be permitted in designated zoning districts subject to conditional use review under Section 5.2, and conformance with the following provisions:

- (1) The minimum lot size per industrial use shall be not less than two (2) acres; gross floor area shall not exceed twelve thousand (12,000) square feet.
- (2) Overall building height shall not exceed thirty-five (35) feet; however the height of individual attached structural components may exceed thirty-five (35) feet, subject to Development Review Board review under Section 3.6.
- (3) All light industry shall meet minimum setback requirements for the district in which it is located. In addition, a strip of land at least fifty (50) feet in depth shall be maintained as a landscaped buffer area along all property lines and rights-of-way. No building or other structure shall be located in this buffer area. Landscaping and fencing along property boundaries also may be required as appropriate for screening, safety and security.
- (4) Industrial uses are limited to those manufacturing, fabrication or processing activities which produce no noise, vibration, noxious omissions, air or water pollution, fire or explosion hazard which would endanger or disturb neighboring properties. Such uses must comply with all performance standards under Section 3.12; additional conditions may be imposed by the Development Review Board as appropriate to protect public health, safety, and welfare, municipal facilities and services, and other public investments.
- (5) All aspects of the industrial process shall be carried out within the principal building. Accessory structures are to be used only for the storage of equipment and materials, or accessory uses such as office space.
- (6) Light industry shall have frontage on public roads or access to such roads from a private industrial development road or driveway, which does not serve residential properties.
- (7) Light industry shall meet all other applicable provisions of this bylaw, including but not limited to parking standards (Section 3.11), outdoor lighting standards (Section 3.10) and wastewater standards (Section 3.15).
- (8) Light industry shall meet other applicable state and federal regulations. Evidence of compliance with state and federal regulations may be required prior to the issuance of a zoning permit by the Administrative Officer.
- (9) Light industry that also includes on-site retail sales or is otherwise open to the public (e.g., for tours) shall be reviewed as a mixed use, and as such be required in addition to meet all zoning provisions pertaining to such retail uses for the district in which it is located, including but not limited to additional acreage, frontage, and/or parking requirements.

**Section 4.8 Mixed Use**

In designated districts, more than one (1) use may be permitted within a single building or on a single property subject to conditional use review under Section 5.2 and the following provisions:

- (1) Each of the proposed uses is otherwise allowed as permitted and/or conditional uses in the district in which the mixed use is proposed.
- (2) The combined uses meet all applicable standards for the district in which the mixed use is proposed, including minimum setbacks and frontage, maximum lot coverage, minimum lot size and any specific use standards set forth in Article IV.
- (3) The combined uses shall meet all applicable standards as set forth in this bylaw, including but not limited to access requirements under Section 3.1, parking (Section 3.11) and wastewater (Section 3.15) requirements as determined based on the cumulative demand for all proposed uses.

**Section 4.9 Mobile Home Parks**

It shall be unlawful to park, place, maintain or permit more than two mobile homes on any lot for residential use except in a mobile home park duly approved under this section. This section shall not apply to campers regulated under Section 4.3, mobile homes on lots, which meet the zoning requirements for single family or accessory dwellings (Section 4.1) for the district in which they are located, or mobile homes on an approved sales lot. The construction, expansion or alteration of a mobile home park may be permitted within designated zoning districts subject to conditional use review under Section 5.2, and the following provisions:

(A) A mobile home park shall have a contiguous area of not less than five (5) nor more than thirty (30) acres. The maximum density of any mobile home park shall not exceed an overall average of one (1) mobile home per acre unless otherwise permitted subject to Planned Residential or Planned Unit Development (PRD, PUD) provisions under Section 5.4.

(B) A strip of land at least fifty (50) feet wide shall be maintained as a landscaped area abutting all mobile home park boundary lines. No mobile home unit or office, utility or service building may be placed within this buffer area. The Development Review Board may reduce or eliminate this landscaped area requirement if such modification or waiver will make it possible to preserve a scenic view, provided that privacy for adjacent property owners can be maintained. Additional landscaping and fencing along property boundaries also may be required as appropriate for screening, security, and to provide privacy.

(C) The following minimum dimensional requirements shall apply to each mobile home lot:

- (a) lot size: 20,000 square feet
- (b) lot frontage: 50 feet (along a mobile home park road).
- (c) lot depth: 125 feet.
- (d) setback from park/access road: 25 feet
- (e) setback from lot lines: 15 feet

(D) All roads within the mobile home park shall be constructed to Town road standards; pedestrian walkways shall also be provided as appropriate.

(E) A suitable nonporous pad at least four (4) inches thick shall be provided for each mobile home lot.

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(F) Sewage disposal, water supply and garbage facilities, to be supplied and maintained by the park owner, shall comply with state regulations. All electric, telephone and other utility lines shall be buried underground, unless the applicant can demonstrate that due to site conditions an unreasonable financial hardship will be created. A municipal wastewater disposal permit shall be required in accordance with Section 3.15.

(G) At least fifteen (15) percent of the total land area shall be set aside and maintained for common recreational use. Conditions with regard to the ownership, use and maintenance of such land may be imposed as appropriate. This requirement may be reduced or waived if a central recreation building or other developed recreational facility of sufficient size to accommodate simultaneous use by the occupants of the park is provided.

(H) A minimum of two parking spaces per mobile home lot shall be provided. Each parking space shall be at least nine (9) feet by twenty (20) feet.

**Section 4.10 Public Facilities**

(A) Pursuant to the Act [Section 4409(a)], adequate provisions have been made within this bylaw for the location of the following public facilities in designated zoning districts, as listed specifically, or under various use classifications, which are subject to all applicable provisions of this bylaw:

- (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, convents, and parish houses;
- (5) public and private hospitals;
- (6) regional solid waste management facilities certified by the state; and
- (7) hazardous waste management facilities for which a notice of intent to construct has been received under state law [10 V.S.A. Section 6606a].

(B) For those public facilities subject to conditional use review under Section 5.2, the following additional standards shall be considered:

- (1) Unsightly or incompatible land uses, such as substations, parking lots, and refuse areas, shall be screened with appropriate landscaping materials suitable to withstand weather conditions, compatible with soil conditions and capable to light conditions.
- (2) Adequate circulation, parking, and loading facilities shall be provided in accordance with Section 3.11 with particular consideration given to visibility at intersections, traffic flow and control, pedestrian safety, and access in case of an emergency.
- (3) To protect the privacy of adjoining property owners, additional yard space or increased setbacks from the property line may be required in addition to that established for the particular district or use.
- (4) The density, size, height, or bulk of buildings may be increased or decreased as needed, in conformance with district and use requirements, to ensure compatibility with established patterns of land use.
- (5) Other applicable provisions of this bylaw, including but not limited to outdoor lighting standards (Section 3.10), performance standards (Section 3.12), and wastewater disposal standards (3.15) shall apply.

**Section 4.11 Salvage Yards**

New or expanded commercial salvage and junk yards may be permitted within designated zoning districts subject to review and approval by the Fletcher Select Board under separate state statute [24 V.S.A., Chapter 61, Subchapter 10 Section], conditional use review under Section 5.2, and the following provisions:

- (1) A minimum of three (3) contiguous acres shall be required for new yards. No yard shall exceed ten (10) acres in area or extent.
- (2) Yards shall be set back at least one hundred (100) feet from all property lines, road rights-of-way, surface waters, and wetlands; required setbacks may be increased as appropriate based on specific site conditions, and to protect water quality and neighboring properties.
- (3) Yards shall be screened year-round from public view; additional landscaping, fencing or other forms of screening may be required as appropriate.
- (4) Yards shall be secured as necessary to protect public health, safety, and welfare, and neighboring properties.
- (5) Exterior lighting shall be the minimum required for security and safe operation; general lighting standards under Section 3.10 shall apply.
- (6) All performance standards under Section 3.12 shall apply.
- (7) The on-site storage of materials shall not adversely affect surface, ground or drinking water supplies, or other identified natural, cultural, or scenic features on-site, or in the vicinity of the yard.
- (8) Conditions and limitations may be imposed with regard to traffic generated, hours of operation, and the on-site storage of hazardous materials in order to protect neighboring properties, public infrastructure including roads, and the character of the area in which the yard is located.
- (9) All materials shall be removed from the site within twelve (12) months of the cessation or abandonment of operations; and the site shall be restored to a safe, usable condition. Site restoration, including the clean up and disposal of hazardous materials, shall be subject to all applicable state and federal regulations. A site restoration plan may be required.

**Section 4.12 Land Filling, Extraction and Quarrying**

(A) **Land Filling.** Any major land filling operation *which would cause a substantial change in the rate or direction of drainage*, shall be permitted only upon approval by the DRB, subject to conditional use review under Section 5.2 and state referral requirements for wetlands and floodplains as appropriate under Sections 2.4 and 6.4(E). The Board shall consider existing and proposed grades, and the materials to be used; and may impose appropriate conditions and safeguards to minimize any adverse effects on-site or to other properties, with respect to the following:

- (1) drainage, runoff, and the potential for erosion and/or siltation;
- (2) ground and surface waters;
- (3) wetlands, floodplains, shorelands, wildlife habitat and other natural features;
- (4) roads, culverts, bridges and other infrastructure;
- (5) cultural, historic or scenic features.

(B) **Extraction and Quarrying.** The removal or extraction of topsoil, rock, sand, or gravel or other similar material for commercial purposes, except where incidental to or in connection with the construction of a building or other allowed use, may be permitted in designated districts subject to conditional use review under Section 5.2, and findings that the proposed operation shall not cause any hazard to public health and safety, or otherwise adversely affect neighboring properties, property values, public facilities and services, surface and ground water supplies, and/or natural, cultural, historic or scenic features. In granting approval, the DRB may consider and impose conditions with respect to the following factors as it deems appropriate:

- (1) depth of excavation or quarrying;
- (2) slopes created by removal;
- (3) effects on surface drainage on and off-site;
- (4) storage of equipment and stockpiling of materials on-site;
- (5) hours of operation for blasting, trucking, and processing operations;
- (6) effects on neighboring properties due to noise, dust, or vibration;
- (7) effects on traffic and road conditions, including potential physical damage to public highways;
- (8) creation of nuisances or safety hazards;
- (9) temporary and permanent erosion control;
- (10) effect on ground and surface water quality, and drinking water supplies;
- (11) effect on natural, cultural, historic, or scenic resources on-site or in the vicinity of the project;
- (12) effect on agricultural land;
- (13) public safety and general welfare; and
- (14) site reclamation.

(C) **Application Requirements.** The application for conditional use permits under this Section shall include erosion control and site reclamation plans showing existing grades, drainage and depth to water table; the extent and magnitude of the proposed operation including proposed project phasing; and finished grades at the conclusion of the operation.

(D) **Surety Requirement.** In accordance with the Act [Section 4407(8)] a performance bond, escrow account, or other surety acceptable to the select board shall be required to ensure reclamation of the land upon completion of excavation projects, to include any regrading, reseeding, reforestation or other reclamation activities that may be required. Per statute, this provision specifically does not apply to mining or quarrying operations; however upon failure of the permit holder, their successors or assigns to complete site reclamation as required, the town may take legal action as appropriate to ensure site reclamation and cost recovery.

#### **Section 4.13 Telecommunication Facilities**

(A) New or expanded telecommunication facilities, including but not limited to towers and accessory structures; may be permitted in designated zoning districts subject to conditional use review under Section 5.2 and the following provisions:

- (1) A proposal for a new tower shall not be permitted unless it is determined by the Development Review Board that the equipment planned for the proposed tower cannot be accommodated on an approved tower or existing building or structure.
- (2) All new towers shall be designed structurally, electrically and in all respects to accommodate both the applicant's antennas and comparable antennas for at least one additional user if the tower is less than or equal to seventy-five (75) feet in height, and two (2) additional, compatible users if it exceeds seventy-five (75) feet in height. Towers must be designed to allow for the future rearrangement of antennas, and to accept antennas mounted at varying heights.



- (3) All towers, including attached antennae, shall not exceed one hundred (100) feet in height as measured from the lowest grade at ground level to the top of the highest structure or component.
- (4) No wireless telecommunication site shall be located within two hundred (200) feet of an existing residence.
- (5) Towers shall be set back from all property lines and public rights of-way for a distance equaling their total height, including attached antennas, unless otherwise permitted by Development Review Board:
  - (a) if tower design and construction guarantees that it will collapse inwardly upon itself, and no liability or risk to adjoining or public property shall be assumed by the municipality; or
  - (b) to allow for the integration of a tower into an existing or proposed structure such as a church steeple, light standard, utility pole, or similar structure, to the extent that no hazard to public health, safety or welfare results.
- (6) Tower construction and wiring shall meet all state and federal requirements, including but not limited to FCC requirements for transmissions, emissions and interference. No telecommunication facility shall be located or operated in such a manner that it poses a potential threat to public health or safety.
- (7) New towers shall be located to minimize their visibility. No tower shall be located on an exposed ridgeline or hilltop. New or modified towers and antennae shall be designed to blend into the surrounding environment to the greatest extent feasible, though the use of existing vegetation, landscaping and screening, the use of compatible materials and colors, or other camouflaging techniques. Commercial wireless towers shall be of a monopole design unless it is determined that an alternative design would better blend into the surrounding environment.
- (8) Towers shall be enclosed by security fencing at least six (6) feet in height, and shall be equipped with appropriate anti-climbing devices.
- (9) Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower.
- (10) The use of any portion of a tower for signs other than warning or equipment information signs is strictly prohibited.
- (11) All utility buildings and structures accessory to a tower shall be designed to aesthetically blend in with the surrounding environment and meet all other minimum requirements for the district in which they are located. Ground-mounted equipment shall be screened from view. Setback, landscaping and screening requirements may be increased as appropriate to site conditions, and to protect neighboring properties and uses. All utilities proposed to serve a telecommunications site shall be installed under ground.
- (12) All abandoned or unused towers and associated facilities shall be removed within twelve (12) months of the cessation of operations at the site, and the site shall be restored to its original appearance. A copy of the relevant portions of any signed lease, which requires the applicant to remove the tower and associated facilities, shall be submitted at the time of application. A bond or other acceptable form of surety may be required to ensure tower removal and site reclamation.

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(B) In addition to the site development plan required under Section 5.2, applications for new towers shall also include the following:

- (1) a report from a qualified and licensed professional engineer which describes tower height, construction design and capacity, including cross-sections, elevations, potential mounting locations, and fall zones;
- (2) information regarding the availability of existing towers and buildings located within the site search ring for the proposed site, including written documentation from other tower owners within the search ring that no suitable sites are available;
- (3) a letter of intent committing the tower owner and his/her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use;
- (4) proof that the proposed tower shall comply with all requirements of the Federal Communications Commission, and the Federal Aviation Administration;
- (5) any additional information needed to determine compliance with the provisions of this bylaw.

(C) Notwithstanding the requirements of subsection (A), wireless telecommunications equipment to be mounted on existing towers, utility poles, or other structures may be permitted in any District by the Administrative Officer without conditional use review provided that:

- (1) no changes are made to the height or appearance of such structure except as required for mounting;
- (2) the height of the antenna as mounted does not exceed height requirements under Section 3.6;
- (3) no panel antenna shall exceed seventy-two (72) inches in height or twenty-four (24) inches in width;
- (4) no dish antenna shall exceed three (3) feet in diameter;
- (5) any accompanying equipment shall be screened from public view.

(D) The following are specifically exempted from the provisions of this Section:

- (1) A single ground or building mounted radio or television antenna or satellite dish not exceeding three (3) feet in diameter which is intended solely for residential use, and does not, as mounted, exceed fifty (50) feet in height above the lowest grade at ground level.
- (2) A citizens band radio antenna or antenna operated by a federally licensed amateur radio operator which does not exceed a height of fifty (50) feet above the lowest grade at ground level, whether free standing or mounted, and which meets all setback requirements for the district in which it is located.

## Article V. Development Review

### Section 5.1 Application of Development Review Standards

(A) **Conditional Use Review** per Section 5.2 shall apply only to those uses designated as conditional uses in Article II or as otherwise specified under Article III. Uses designated as permitted uses are not subject to conditional use review standards.

(B) **Planned Residential Development (PRD) and Planned Unit Development (PUD) Review** per Section 5.4 may be applied at the request of the applicant to any size parcel to be subdivided; and may be required by the DRB for any subdivision creating more than nine (9) building lots.

### Section 5.2 Conditional Use Review

(A) **Applicability.** Any use or structure requiring conditional use approval shall not be issued a zoning permit by the Administrative Officer until the Development Review Board grants such approval in accordance with the Act [Section 4407(2)], and the standards set forth in Section 5.3.

(B) **Application.** An application for conditional use review, associated fee, and a site development plan prepared in accordance with subsection (C) below, shall be submitted to the Administrative Officer for consideration at the next available, regularly scheduled meeting of the Development Review Board. The application shall not be considered complete until all of the application materials listed or requested under Subsection (C) have been submitted. The Development Review Board may waive any of the application requirements under Subsection (C) in the event they determine the item(s) to be unnecessary for the comprehensive review of the application. Such waiver shall be made at the time that the application is accepted and deemed complete.

(C) **Site Development Plan.** An applicant for conditional use approval shall submit one (1) original and three (3) complete copies of a site development plan, to include the following:

- (1) The name and address of owner(s) of record of the property; name, address and interest of the applicant, if different than the owner(s) of record; name and address of the person or firm preparing the application and related plans; date of the application and related plans; names and addresses of all owners of adjoining lands.
- (2) A plan drawn to scale- preferably for larger and/or complex projects prepared by a licensed engineer, surveyor, land planner or as otherwise approved by the Development Review Board, which depicts the following:
  - a) north arrow and scale;
  - b) legal property boundaries for the property;
  - c) proposed property boundaries, including internal lot lines;
  - d) zoning district boundaries;
  - e) the location of existing and proposed features, to include topographic features (such as ridgelines, hilltops, and areas of slope greater than 20 percent), land use (including farmed and forested lands), existing vegetation, natural and critical habitat areas, floodplains and wetlands; conservation areas and historic sites; structures (building footprints); walls and fence lines; parking areas, roads, driveways, easements and rights-of-way, and utilities.
  - f) traffic and pedestrian circulation within the site; location of loading areas; access to neighboring properties; and roads, sidewalks, pathways and trails in the vicinity.
  - g) proposed landscaping, screening, grading, drainage, sign and lighting details.
- (3) A site location map showing the location of the project in relation to nearby town highways, and adjoining parcels and uses.

In addition, the Development Review Board may, upon preliminary review of the application, require additional information that it deems necessary to determine whether the proposed use or structure meets the applicable standards. Such information may include but is not limited to:

- (4) Photographs of the site.
- (5) Water supply and wastewater disposal details.
- (6) Phasing schedule for completion of all proposed development and site improvements.
- (7) An indication of traffic to be generated by the project and the impact of such traffic on area roads.
- (8) The location of natural features or site elements to be preserved as open space or to be held in common and the method for protecting those features or elements.
- (9) Additional studies or data relative to the project's impact on the community, such as set backs, storm water management and erosion control plans, visual impact analysis or community service impact assessments.
- (10) Preliminary building elevations for new or altered structures, including an indication of the exterior façade design, window treatment and roof and siding materials.

(D) **Review Procedure.** Upon submission of an application to the Administrative Officer, the Development Review Board shall schedule a public hearing, warned in accordance with Section 6.6, to consider the application. Should the Board determine that the application is not complete, and/or that additional information or materials are required to consider the proposed use, the hearing shall be recessed to a later date to allow the applicant time to provide the necessary information. In accordance with the Act [Section 4407], the Board shall act to approve, approve with conditions, or disapprove any application for conditional use review within sixty (60) days after the date of the final public hearing, and shall issue a written decision, to include findings, any conditions, and provisions for appeal. Failure to act within sixty (60) days shall be deemed approval. In approving a project with conditions, the Board may require specific modifications to the scale, layout and/or design of the project, or place restrictions on its operation and/or intensity to ensure compliance with this Section.

### **Section 5.3 Conditional Use Standards**

(A) **General Standards.** In accordance with the Act [Section 4407], conditional use approval shall be granted by the Development Review Board upon its determination that the proposed use or structure will not adversely affect the following standards:

- (1) **The capacity of existing or planned community facilities or services.** The Board shall consider the demand for community services and facilities which will result from the proposed development, and determine whether that demand will exceed the existing or planned capacity of existing facilities or services. In making such a determination, the Board will consider any capital program or budget in effect at the time of application. Conditions may be imposed regarding the timing and phasing of development to minimize the impact on schools and other community facilities and services.
- (2) **The character of the neighborhood area, or district affected.** The Board shall consider the location, scale and intensity of the proposed development relative to the use and character of adjoining properties and other properties likely to be affected by the proposed use; and shall consider the proposed development's compatibility with the purpose and character of the affected district as defined by this bylaw, the Town Plan, and the testimony of affected property owners and Town residents.

- (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 roads, bridges, and intersections. Generally, the Board will depend on accepted transportation standards in evaluating traffic impacts. The Board shall also ensure that adequate provision is made for the long term, ongoing maintenance of roads, including private development roads and shared driveways, through the existence of a road maintenance agreement, private association or comparable mechanism.
- (4) **Other Town bylaws in effect.** A conditional use must comply with all bylaws and regulations in effect at the time of submission of the application.
- (5) **The utilization of renewable energy resources.** The Board shall consider whether the proposed development will interfere with the sustainable use of renewable energy resources either through the use of such resources or from the proposed project's impact on the future availability of such resources.

(B) **Specific Standards.** In addition to the General Standards set forth in subsection 5.3 (A) above, the Development Review Board may require specific conditions or modifications to the project to ensure the following:

- (1) The proposed development conforms to all applicable zoning district standards set forth in Article II of this bylaw.
- (2) The proposed development conforms to all applicable general provisions set forth in Article III of this bylaw, including but not limited to those regarding outdoor lighting, signs, and parking.
- (3) The proposed development conforms to all applicable specific use provisions set forth in Article IV of this bylaw.
- (4) Storm water runoff shall not result in adverse impacts on neighboring properties, roads or water quality. Storm water management and erosion control plans may be required and incorporated as conditions of the permit.
- (5) The storage or display of outside materials, goods, supplies, vehicles, machinery or other materials shall be prohibited unless specifically approved by the Board. Secured, covered areas shall be provided for the collection and on-site storage of trash and recyclables generated by the proposed development. In approving such outdoor display or storage, the Board may place conditions on the area and location of such storage or display, and may require appropriate screening.
- (6) The proposed development shall not result in any direct or indirect discharge of waste, contaminants or storm water, or any in-ground disposal of wastewater, in a manner that would adversely impact existing or planned, public or private, water supplies (including both ground and surface waters).
- (7) Proposed landscaping shall enhance the features and conditions unique to each site. Landscaping may be required in front and side yards, adjacent to parking areas, where rear yards abut residential properties or public roads, or as otherwise necessary to provide adequate buffering and screening. A three (3) year plan for all proposed landscaping, and/or bonding or other surety also may be required to ensure installation and maintenance.
- (8) The development shall not result in any adverse impact to natural areas, historic sites or scenic views identified in the Town Plan or through site investigation. The Board may limit the location, scale, layout and design of the proposed development to ensure the protection of natural areas, historic features and scenic views.

- (9) Other conditions, safeguards and/or modifications, to be specified in the permit, to ensure that the approved project is in full compliance with the general and specific standards set forth above or contained elsewhere in this bylaw.

**Section 5.4                      Planned Residential & Planned Unit Developments (PRDs & PUDs)**

(A) **Purpose.** In accordance with the Act [Sections 4407(3),(12)], Planned Residential Developments (PRDs) and Planned Unit Developments (PUDs) may be permitted subject to DRB approval.

The purpose of this provision is to encourage flexibility of design and the development of lands in such a manner as to promote the most appropriate use of land, to facilitate adequate and economic provision of roads and utilities, to encourage energy efficient construction, and to promote the clustering of development to preserve and maintain agricultural land and open space, and to protect natural, cultural and scenic features of the Town as identified in the Fletcher Town Plan. Accordingly, the DRB may modify applicable area and dimensional requirements under this zoning bylaw simultaneously with the approval of a subdivision plat.

(B) **Applicability.** PRD or PUD provisions may be applied at the request of the applicant to any size parcel to be subdivided; and may be required by the DRB for any subdivision creating more than nine (9) building lots.

(C) **Review Procedures.** PRDS and PUDs shall be reviewed under the Fletcher Subdivision Regulations. Upon approval of the PRD or PUD, approved modifications of this bylaw shall be specifically set forth in terms of standards and criteria for the design, bulk and spacing of buildings and the sizes of lots and open spaces which shall be required, and these shall be noted or appended to the plat. All other provisions of this bylaw not specifically modified shall remain in effect and be applicable to the project.

(D) **Coordination with Conditional Use Review.** Approval granted by the DRB under this Section for a PUD or PRD involving the development of one or more conditional uses subject to review under Section 5.2 of this bylaw shall not exempt the proposed development from Development Review Board review in accordance with Section 5.2. Any modifications of this bylaw approved by the DRB in granting PUD and/or PRD approval shall be noted in the DRB's official written findings and notice of decision and, together with the approved proposal, shall be forwarded to the Administrative Officer and Development Review Board. All other provisions of this bylaw not specifically modified shall remain in effect and be applicable to the project.

(E) **Application Requirements.** In addition to submission requirements under the Fletcher Subdivision Regulations, PRD and PUD applications shall include the following:

- (1) A statement describing the nature of all proposed modifications, changes or additions from the existing zoning regulations, and the proposed standards and criteria for the development, including standards for the design, dimensions and spacing of buildings and sizes of lots and open spaces.
- (2) Any other supporting information that the DRB deems necessary to determine whether the proposed PRD or PUD meets applicable standards.
- (3) Applications for PUDs and/or PRDs involving the development of designated conditional uses shall include the information set forth in subsection 5.2 (C), above.

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**Section 5.5**                    **Planned Residential and Planned Unit Development Standards**

(A) **General Standards.** PRDs and PUDs, including any modifications of the zoning bylaw to be approved by the DRB, shall be subject to the following general conditions and standards:

- (1) The PRD or PUD will meet all applicable standards set forth in the existing Fletcher Subdivision Regulations.
- (2) The PRD or PUD shall be consistent with the Fletcher Town Plan and all other applicable regulations and ordinances in effect.
- (3) The PRD or PUD shall be an effective and unified treatment of the development possibilities of the project site, making appropriate provision for the preservation of surface and ground waters, stream banks, lake shore, slopes greater than twenty (20) percent, wetlands, soils unsuitable for development due to shallow depth to bedrock or high water table, limitations for on-site sewage disposal, agricultural lands, historic or archaeological sites, natural areas, wildlife habitat, ridge lines and hill tops, flood plains, open spaces, and scenic views and vistas.
- (4) Uses may include those permitted and/or conditional uses allowed within the district where the project is proposed.
- (5) Where a district boundary line divides a parcel, the DRB may allow the development of a single PUD or PRD with a total density based on the allowable density of each district as set forth in Section 2.4.
- (6) Two (2) or more contiguous parcels under the ownership or control of the applicant may be combined for review as a PRD or PUD. The permitted density on one parcel may be increased as long as the overall density for the combined parcels does not exceed that which could be permitted, in the DRB's judgement, if the land were subdivided into lots in conformance with district regulations.
- (7) The minimum front, side and rear yard setbacks at the periphery of the PRD/PUD shall be as dictated for the particular district unless otherwise specified by the DRB. The DRB may consider within the project area other setback standards, such as zero lot lines, as part of subdivision review.
- (8) Building heights shall not exceed thirty-five (35) feet unless otherwise permitted in accordance with Section 3.6.
- (9) The PRD or PUD shall meet all local and state regulations for sewage disposal and the protection of water quality.
- (10) In addition to standards under subdivision review, the DRB may impose for PRDs or PUDs further restrictions on the height and spacing of buildings; greater setback and screening requirements for structures and parking areas and other development along the perimeter of the project, and between development areas and common, open space areas.
- (11) Provision shall be made for the preservation of open space. The location, size and shape of lands set aside to be preserved for open space shall be approved by the DRB in accordance with the Fletcher Subdivision Regulations.

**(B) Standards Specific to Planned Residential Developments.** In addition to the general standards, PRDs shall also meet the following specific standards:

- (1) A PRD shall include only residential uses and associated accessory structures and uses as allowed within the district in which the PRD is located. Associated uses may include home occupations, small day care centers, and small group homes.
- (2) The total number of dwelling units shall not exceed that which would be permitted in the DRB's judgment, if the parcel were subdivided into buildable lots in conformance with the district minimum lot area requirement for single-family dwellings. The number of dwelling units allowed in a PRD may, at the discretion of the DRB, be increased by up to 25 percent of the number, which the DRB determines could be provided on the site in conformance with zoning district requirements. Density bonuses shall be granted only for developments, which demonstrate exceptional design, or for the provision of elderly and/or affordable housing, and which advance the objectives for housing as set forth in the Town Plan.
- (3) The DRB may allow for a greater concentration or intensity of residential development within some section(s) of the development than in others, on individual lots which are smaller than the minimum lot size for the district within which the PRD is located, provided that there is an offset by a lesser concentration in other sections, including an appropriate reservation of open space on the remaining land.
- (4) The dwelling units permitted may, at the discretion of the DRB, be of varied types, including single-family, two-family, or multi-family construction, and may be attached or detached. In no case shall the maximum number of units in a multiple family dwelling exceed six (6).

**(C) Standards Specific to Planned Unit Developments.** In addition to the general standards, PUDs shall also meet the following specific standards:

- (1) The total number of allowable residential units and/or commercial or industrial space within the PUD shall not exceed the number, which could be permitted in the DRB's judgment, if the land were subdivided into lots in conformance with the zoning regulation for the district in which the project is located.
- (2) A PUD may include any permitted or conditional uses allowed in the district in which it is located. Multiple principle structures and/or uses on a lot, or multiple ownership of a single structure may be permitted.
- (3) Principal buildings and mixed uses shall be arranged to be compatible, and buffered as appropriate to ensure visual and acoustical privacy for the residents of the development and for adjacent properties.



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## Article VI. Administration and Enforcement

### Section 6.1 Administrative Officer

(A) **Appointment.** Zoning shall be administered and enforced by an Administrative Officer appointed in accordance with the Act [Section 4442] for a term of three (3) years by the Planning Commission, with the approval of the Select Board. The Administrative Officer shall work under the supervision of the Planning Commission, and may be removed from office at any time for just cause by the Select Board, after consultation with the Planning Commission. Compensation to the Administrative Officer shall be paid out of the general fund in an amount and schedule established by the Select Board.

(B) **Duties.** The Administrative Officer shall administer and enforce these zoning regulations literally, and shall not have the power to permit land development which is not in conformance with them. The Administrative Officer may make reasonable inspections as he or she deems necessary to determine compliance, and shall make a full and accurate record, available to the public, of all applications and fees received, permits issued and denied, and violations reported. In addition, the Administrative Officer will:

- (1) prepare and provide interested persons with forms required to obtain any municipal permit or other municipal authorization required under this bylaw, or any other laws and ordinances that relate to the municipal regulation of land development;
- (2) coordinate a united effort on behalf of the Town in administering its development review programs; and
- (3) inform any person applying for municipal permits or authorizations that the person also should contact the regional permit specialist employed by the Vermont Agency of Natural Resources in order to assure timely action on any related state permits that may be required.

(C) **Acting Administrative Officer.** In the absence or disability of the Administrative Officer, an acting Administrative Officer may be appointed and empowered in the same manner as provided in subsections (A) and (B) above.

### Section 6.2 Development Review Board

(A) **Appointments.** A Development Review Board shall be appointed by the Select Board in accordance with the Act [Section 4461]. The number of members and their terms of office shall be determined by the Select Board. Vacancies shall be filled by the Select Board for unexpired terms and upon the expiration of terms. Members may be removed for cause by the Select Board upon written charges, after public hearing.

(B) **Alternates.** Alternates may be assigned by the Select Board for a specified term in situations where one or more members are disqualified or are otherwise unable to serve.

(C) **Duties.** In accordance with the Act [Subchapter 8], the Development Review Board shall have the following powers and duties:

- (1) to elect officers, and establish and apply rules of procedure, subject to the Act [Section 4462] and Vermont's open meeting laws [1 V.S.A., Sections 310-314];
- (2) to employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services;
- (3) to hear and decide appeals including, without limitation, any appeal alleging an error committed by the Administrative Officer under Section 6.7;

- (4) to hear and decide appeals for variances from the provisions of this bylaw under Section 6.7(F);
- (5) to hear and decide applications for conditional uses under Section 5.2;
- (6) to, in connection with any proceeding under this bylaw, examine or cause to be examined any property, maps, books, or records bearing on the matters concerned in such a proceeding;
- (7) to request, in association with the review of proposed development, additional studies to be supplied and paid for by the applicant;
- (8) to make written findings of fact and conclusions of law as part of the record in each case for all matters heard and decided by the Development Review Board;
- (9) to hear and decide upon requests for access approval under Section 3.1;
- (10) to consider and act upon applications for Planned Residential and Planned Unit Developments (PRDs and PUDs) under Section 5.4;
- (11) to consider and act upon applications for subdivision approval in accordance with the Fletcher Subdivision Regulations as referenced herein;
- (12) to impose reasonable conditions and safeguards as it deems appropriate and necessary, in accordance with the provisions of this bylaw;

### Section 6.3 Planning Commission

(A) **Appointment.** A Planning Commission shall be appointed by the Select Board unless otherwise provided for in accordance with the Act [Sections 4321-4323]. The number of members, which shall have terms of office of four (4) years, shall be determined by the Select Board, and vacancies shall be filled by the Select Board for unexpired terms and upon the expiration of terms, unless otherwise provided for in accordance with the Act [Section 4323]. Members, unless elected, may be removed for cause at any time by a unanimous vote of the Select Board upon written charges, after public hearing.

(B) **Alternates.** Alternates may be assigned by the Select Board for a specified term for specific development review proceedings where one or more members are disqualified or are otherwise unable to serve.

(C) **Duties.** In accordance with the Act [Sections 4323, 4325], the Planning Commission shall have the following powers and duties pertaining to the amendment and administration of this bylaw:

- (1) to elect officers, and establish and apply rules of procedure in accordance with the Act [Section 4323] and Vermont's open meeting laws [1 V.S.A., Sections 310-314];
- (2) to retain staff and consultant assistance in carrying out its duties and powers;
- (3) to prepare, or review for recommendation, proposed amendments to this bylaw; and other municipal regulations and ordinances as permitted by the Act;
- (4) to, in the performance of its functions, enter upon land to make examinations and surveys; require from other municipal departments such available information as relates to its work; and hold public hearings;

- (5) to undertake capacity studies and make recommendations on land development, transportation, economic development, historic and scenic preservation, design improvements, wetland protection, and other such matters as specified in the Act [Section 4325(4)];
- (6) to perform other acts or functions as it may deem necessary or appropriate to fulfill the duties and obligations imposed by, and the intent and purposes, of the Act and this bylaw.

#### Section 6.4 Permits and Applications

(A) **Permit Requirements.** In accordance with the Act [Section 4443], no land development as defined herein, unless specifically exempted under Section 6.5 of this bylaw shall commence without the landowner first obtaining all necessary permits. For administrative purposes, the following types of permits are established under this bylaw:

- (1) **Access Permit:** required for all new accesses onto public roads. All access onto public roads is subject to the approval of the Fletcher Select Board, and, for access onto state highways (Route 108), the Vermont Agency of Transportation. (See Section 3.1 (D)). Access permits must be approved prior to the issuance of a zoning permit.
- (2) **Zoning Permit:** required prior to all land development as defined under Article VII, including new construction, relocation, or the substantial improvement, enlargement or conversion of any structure; the commencement of any mining, excavation or landfilling; and/or the change or expansion of a use of a structure or land. No permit shall be issued by the Administrative Officer for any use or structure which requires the approval of the DRB, Select Board, Health Officer or other local official until all such approvals have been granted.
- (3) **Wastewater Disposal Permit:** required for any new structure from which wastewater will be generated, and any expansion or conversion of a use or structure generating additional wastewater. Where a wastewater disposal permit is required, no zoning permit shall be issued by the Administrative Officer until a wastewater disposal permit has been obtained in accordance with Section 3.15.
- (4) **Certificate of Occupancy:** required prior to the use or occupancy of any land or structure for which a zoning permit has been issued after the effective date of this bylaw. A Certificate of Occupancy shall be issued by the Administrative Officer upon his/her determination that the land and or/structure has been developed in accordance with the requirements and conditions of the zoning permit, this bylaw, and all other applicable municipal regulations and ordinances. For development subject to wastewater requirements under Section 3.15, no certificate of occupancy shall be issued until a certification of inspection and installation has been received and accepted by the Administrative Officer in accordance with Section 3.15(E).

(B) **Application Requirements.** Applications for permits under this bylaw shall be made to the Administrative Officer on forms provided by the Town, to include accompanying information as follows:

- (1) **Permitted Uses:** All applications are to be accompanied by a sketch plan drawn to an appropriate scale which accurately depicts the dimensions of the lot to be built on; the location of any building or structure to be erected, altered, extended or moved; all applicable setbacks; the location of any existing and proposed easements or rights-of-way; and a surveyor's plot plan of the property, if available. The application shall also state in writing the existing and/or intended uses of all buildings or land on the lot, and supply such other information as may be necessary to determine conformance with the provisions of this bylaw.

- (2) **Conditional Uses, Planned Residential and Planned Unit Developments (PRDs/PUDs):** Applications for conditional use and/or planned residential and planned unit developments are to be accompanied by a site development plan prepared in accordance with requirements under Article V.
- (3) **Wastewater Disposal Permit:** Applications for wastewater disposal permits are to include wastewater disposal system information in accordance with Section 3.15.
- (4) **Certificate of Occupancy:** The application for a Certificate of Occupancy shall be provided with the issuance of a zoning permit and/or wastewater disposal permit by the Administrative Officer. The application shall be submitted to the Administrative Officer prior to the occupancy of the land or structure, and shall include written certification that all applicable state permits have been obtained. Where a wastewater permit has been issued, the application shall also be accompanied by a written certification of wastewater installation in accordance with Section 3.15 .
- (5) **Other:** Applications for any other permits or approvals required under this bylaw shall be made to the Administrative Officer on forms provided.

(C) **Application Fees.** The fees for all permits shall be as established in a schedule adopted by the Select Board, which may be revised periodically.

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

- (1) The Administrative Officer shall not issue a zoning permit unless an application, fee and any approvals required by these regulations have been received. If the proposed land development or land use requires DRB or Selectboard approval, and/or a state agency referral under Subsection (E), the application shall be deemed incomplete until such time as the applicable body conducts its review and renders a decision.
- (2) Within thirty (30) days of the submission of a completed application and fee, the Administrative Officer shall either issue or deny the zoning permit in accordance with the Act [Section 4443]. If the permit is denied, the Administrative Officer shall notify the applicant in writing, stating the reasons for denial, and the procedure for appeal. If the Administrative Officer fails to act within the thirty (30) day period, a permit shall be deemed issued on the thirty-first (31st) day.
- (3) Permits issued for land development in the flood hazard area overlay area shall contain notations that such land development is located in a regulated flood hazard area.
- (4) Within seven (7) days of the receipt of the application for a Certificate of Occupancy, the Administrative Officer will inspect the premises to ensure that all work has been completed in conformance with all permit requirements, including all applicable conditions of the DRB. If the Administrative Officer fails to either grant or deny the Certificate of Occupancy within seven (7) days of the submission of an application, the Certificate of Occupancy shall be deemed to be issued.

(E) **Referral to State Agencies.** In accordance with the Act [Section 4409(c)], no zoning permit for the development of land of the following types or located within the following designated areas may be granted by the Town prior to the expiration of a period of thirty (30) days following the submission of a report to the state agency designated in each case, describing the proposed use, the location requested and an evaluation of the effect of such proposed use on the Fletcher Town Plan and on the regional plan, if any:

- (1) **Department of Forests, Parks and Recreation:** Any use in or within one thousand (1000) feet of any state owned or leased property under the jurisdiction of the department of forests, parks and recreation, excluding any state owned railroad corridor leased to the department for interim trail use; and the following recreational areas:
    - (a) Ski areas with lifts or other equipment other than tows, with total capacity of more than five hundred (500) persons per hour.
    - (b) Camps with accommodations for more than fifty (50) persons.
    - (c) Marinas with accommodations for twenty (20) or more boats with lengths in excess of twenty (20) feet.
    - (d) Public beaches, or lands within one thousand (1000) feet thereof.
    - (e) Natural areas as defined in Section 2010 of Title 10.
  - (2) **Department of Environmental Conservation.** Any of the following uses or activities affecting ground or surface water resources:
    - (a) Any area designated as a flood plain or wetland.
    - (b) The damming of streams so as to form an impounding area of five (5) acres or more for reservoir or recreational purposes.
    - (c) The drilling of wells deeper than fifty (50) feet or with a potential yield greater than twenty-five thousand (25,000) gallons per day, except this shall not apply to a well drilled by the owner of a farm or residence for his own use, or the use of the farm.
  - (3) **Department of Fish and Wildlife.** Game lands and stream bank areas owned or leased by the state.
  - (4) **Vermont Transportation Board.** Airports.
  - (5) **Agency of Transportation.** Any use within five hundred (500) feet of the intersection of any entrance or exit ramp providing access to any limited access highway.
- (F) **Effective Date of Permit.** Pursuant to the Act [Section 4443], each zoning permit issued under this section shall contain a written statement of the period of time within which an appeal may be taken.
- (1) Within three (3) days following the issuance of a zoning permit, the Administrative Officer shall:
    - (a) deliver a copy of the permit to the Listers of the municipality;
    - (b) post a copy of the permit in at least one (1) public place in the municipality until the expiration of fifteen (15) days from the date of issuance of the permit; and
    - (c) for permits issued within a designated Flood Hazard Area, comply with the notification requirements of the Flood Hazard District standards.
  - (2) No zoning permit shall take effect until the time for appeals under Section 6.7 has passed; or in the event that a notice of appeal is properly filed, such permit shall not take effect until final adjudication of said appeal.

- (3) In accordance with the Act [Section 4443(c)], if a public notice is issued with respect to the amendment of these regulations, the Administrative Officer shall not issue any zoning permit for the period commencing upon the date of that public notice and ending upon the effective date of the adoption or rejection of the amendment, except with the written consent of the Select Board given after public hearing upon public notice.

**(G) Expiration of Permits.**

- (1) Building permits shall be issued and effective for a fixed period not to exceed two (2) years.
- (2) If a zoning permit expires without substantial land development, the permit shall become null and void and reapplication to complete any activities shall be required. The expiration of a zoning permit under this Section shall include the expiration of all other approvals granted in association with the permit, including but not limited to conditional use approval.
- (3) Any zoning permit issued based upon material inaccuracies or misrepresentation in an application or in any supporting documentation to an application shall be null and void, and shall not be construed as waiving any provision of this bylaw. At minimum, reapplication to complete and/or continue any activities shall be required.

**Section 6.5 Exemptions**

No zoning permit shall be required for the following:

(A) Modifications of building interiors if no change of use is proposed; repairs and minor alterations (including but not limited to chimneys, re-roofing or re-siding) to existing structures not resulting in any change to the exterior dimensions or height of the structure.

(B) Accepted agricultural practices (AAPs) and best management practices (BMPs), including farm structures, as defined by the Commissioner of Agriculture, Food and Markets in accordance with the Act [Section 4495]; however, pursuant to Accepted Agricultural Practice Rules as most recently amended:

- (1) Prior to the construction of farm structures, the farmer must notify the zoning administrator in writing of the proposed construction activity. The notification must contain a sketch of the proposed structure including the setbacks from adjoining property lines and road rights-of-way.
- (2) Local setbacks established by the municipality shall be maintained unless, upon written petition by the farmer, the Commissioner has approved other reasonable setbacks for the specific farm structure being constructed or maintained. Such approval shall be attached to the notification filed with the zoning administrator.
- (3) New farm structures that are not additions to existing farm structures associated with farm operations shall be constructed so that a minimum distance of fifty (50) feet is maintained between the top of the bank of adjoining waters and the farm structure. Such structures do not include those for irrigation, drainage or fencing.
- (4) All farm structures within the Flood Hazard Area Overlay (see Article II) shall be constructed and maintained in accordance with the requirements of the National Flood Insurance Program.
- (5) Violations of Accepted Agricultural Practice Rules may be reported by the municipality to the Commission of Agriculture, Food and Markets for enforcement.

- (C) Accepted management practices (AMPs) for Forestry, as defined by the Commissioner of Forests, Parks and Recreation, pursuant to the Act [Section 4495].
- (D) Any residential fence or wall less than six (6) feet in height which does not extend into or obstruct public rights-of-way, or interfere with corner visibility or site distances for vehicular traffic.
- (E) Residential entrance stairs, handicap ramps, and sidewalks.
- (F) Any accessory structure such as dog house, child's play house, tree house, shed or similar structure with a floor area of one hundred (100) square feet or less, which is located in a side or rear yard at least five (5) feet from all property lines.
- (G) Signs as exempted under Section 3.13, including any sign erected by the State of Vermont or the Town of Fletcher for directional, informational, or traffic control purposes.
- (H) One 200 sq. ft. primitive shelter on minimum twenty-five (25) acre lot in the Conservation District with A minimum setback of two hundred (200) feet from all property lines.
- (I) Garage sales, yard sales, auctions or similar types of sale for a period of not exceeding four (4) consecutive days, nor more than eight (8) days per calendar year, which are managed so as not to cause unsafe traffic conditions, parking problems, or other nuisances to neighbors.
- (J) Temporary docks or floats.

#### **Section 6.6 Notice Requirements**

- (A) **Public Notice.** Pursuant to the Act [Section 4447], public notice required for any public hearing under this bylaw shall be given by the publication of the date, place and purpose of such a hearing in a newspaper of general circulation in the Town (officially designated by the Select Board), and the posting of such notice in one or more public places within the Town not less than fifteen (15) days prior to the date of public hearing. Notice of the hearing shall also be sent by certified mail to the applicant; and will also be sent to adjoining property owners at their last known address, and to other known interested parties. The applicant shall be responsible for furnishing the names and addresses of adjoining property owners with the application.
- (B) **Notice to Interested Persons.** Interested persons should be aware that the notice to adjoining and other potential interested parties is not legally required under the Act [Section 4447] and the Town shall not be liable for any claim of failure to receive notice. Failure of any adjacent property owner or potential interested party to receive notice also shall not invalidate any DRB action.

#### **Section 6.7 Appeals**

- (A) **Decisions of the Administrative Officer.** Any interested person may appeal any decision or act taken by the Administrative Officer, including a request for variance from one or more provisions of this bylaw under subsection 6.7, by filing a written notice of appeal with the Secretary of the DRB, or the Town Clerk if no such Secretary has been elected, within fifteen (15) days of the date of such decision or act. Where it is alleged that an error has been committed in any order, requirement, decision or determination made by the Administrative Officer in the connection with the enforcement of this bylaw, the Board shall consider available evidence and testimony and determine, following public hearing, whether such an error has been committed.
- (B) **Interested Person.** In accordance with the Act [Section 4464 (b)], the definition of an interested person shall include the following:

- (1) the applicant;
- (2) the Town of Fletcher or an adjoining municipality;
- (3) a person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under these bylaws, 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 the Town;
- (4) any ten (10) persons owning real property within the Town who, by signed petition to the DRB, allege that any relief requested by a person under this section, if granted, will not be in compliance with the plan or bylaw of the Town;
- (5) any department or administrative subdivision of the state owning property or any interest therein within the Town or adjoining municipality, and the Vermont Agency of Commerce and Community Development; and
- (6) the municipal Conservation Commission, if one exists.

(C) **Notice of Appeal.** Pursuant to the Act [Section 4465] a notice of appeal submitted by the appellant shall be in writing and shall include the name and address of the appellant; a brief description of the property with respect to which the appeal is taken; a reference to the regulatory provisions applicable to the appeal; the relief requested by the appellant; the alleged grounds why such relief is believed proper under the circumstances, and; any request for a stay of enforcement pursuant to the Act [Section 4466], including a statement under oath by the appellant that irreparable damage will directly result if such stay is not granted.

(D) **Stay of Enforcement.** If the notice of appeal includes a request for a stay of enforcement of the regulatory provisions referred to in the notice of appeal, the DRB, within fifteen (15) days of the filing of the notice of appeal, may grant such a stay in writing with conditions, pursuant to the Act [Section 4466]. Any stay of enforcement shall expire upon the expiration of the time to appeal to court.

(E) **Hearings.**

- (1) **Hearing.** Pursuant to the Act [Section 4467] and Section 6.6, the DRB shall set a date and place for a public hearing on an appeal, which shall be within sixty (60) days of the filing of the notice of appeal. For an appeal for the variance within a flood hazard area, the Board shall give notice of the date and place of the hearing to the Vermont Agency of Natural Resources.
- (2) **Pre-Hearing Conference.** The DRB is hereby authorized to conduct a pre-hearing conference with an appellant to be held at a regularly scheduled and noticed meeting of the Board, the purpose of which shall be to clarify the issues in the controversy, to identify documents and information to be submitted as evidence at the hearing, and to circumvent unnecessary delays that would interfere with an expeditious public hearing process.

(F) **Variations.** On an appeal for a variance from the zoning regulations involving a structure that is not primarily a renewable energy resource structure, the Board shall grant said variance, and render a decision in favor of the appellant, only if *all* of the following conditions are found to exist and are specified in its decision in accordance with the Act [Section 4468]:



- (1) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the zoning regulations in the district in which the property is located;
- (2) That because of such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is necessary to enable the reasonable use of the property;
- (3) That such unnecessary hardship has not been created by the appellant;
- (4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and
- (5) That the variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from the zoning ordinance and the plan.

In granting a variance, the DRB may impose conditions that it deems necessary and appropriate under the circumstances to implement the purposes of this chapter and the Town Plan currently in effect. In no case shall the DRB grant a variance for a use which is not permitted or conditionally permitted within the applicable district, and shall not grant a variance which results in an increase of allowable density.

On appeals for variance from the provisions of this bylaw involving a structure that is primarily a renewable energy resource structure, the Board may grant the variance only if it finds that all of the facts listed in Section 4468(b) of the Act are found in the affirmative.

(G) **Decisions.** In accordance with the Act [Section 4470] the DRB, upon completion of a hearing, shall render its decision, to include written findings of fact and any conditions, within forty-five (45) days. Failure to render a decision within the required period shall be deemed a decision in favor of the appellant granting the requested relief. Copies of any DRB decision shall be sent, within the forty-five (45) day period, to:

- (1) the appellant (by certified mail);
- (2) every person or party who appeared and was heard at the hearing;
- (3) the Administrative Officer; and
- (4) the Town Clerk for filing as part of the public records of the Town.

(H) **Rejection of Appeal.** The DRB may reject an appeal without a hearing and render a decision and findings of fact within ten (10) days of the date of the filing of a notice of appeal, if the Board considers the facts or issues raised by the appellant to be substantially or materially the same as those decided in a previous appeal by said appellant. Such decision shall be rendered, on notice given as in the case under paragraph (D) of this subsection, and shall constitute a decision for the purpose of appeal to the Vermont Environmental Court.

(I) **Appeals to the Vermont Environmental Court.** In accordance with the Act [Sections 4471, 4475], any interested party may appeal a decision of the DRB, within thirty (30) days of such decision, to the Vermont Environmental Court. Notice of the appeal shall be sent to every interested person appearing and having been heard at the hearing before the Board or Commission, and, if any one (1) or more of these persons are not party to the appeal, upon motion they shall be granted leave by the Court to intervene.

## Section 6.8 Violations and Enforcement

(A) **General Provisions.** The commencement or continuation of any land development or land use which is not in conformance with the provisions of this bylaw shall constitute a violation. Violations of this bylaw shall be prosecuted as prescribed in the Act [Sections 4444, 4445]. Each day (24 hours) that a violation is continued constitutes a separate offense.

(B) **Notice of Violation.** No action may be brought under this section unless the alleged offender has had seven (7) days notice by certified mail that a violation exists. An action may be brought without the 7-day notice and opportunity to cure if the alleged offender repeats the violation of the bylaw or ordinance after the 7-day notice period and within the next succeeding twelve (12) months. The 7-day warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the 7 days and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven (7) days.

(C) **Penalties.** Any person who violates any provision of this bylaw shall be fined not more than fifty (50) dollars for each offense, unless a higher fine is permitted under amendments to the Act, in which case the highest permissible fine shall be imposed. In default of payment of the fine, such person, the members of any partnership, or the principal officers of such corporation shall each pay double amount of any such fine. All fines collected for the violation of bylaws shall be paid over to the municipality whose bylaw has been violated.

(D) **Remedies.** If any structure or land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained or used in violation of any bylaw adopted under this chapter the Administrative Officer shall institute proceeding to prevent, restrain, correct or abate such construction or use, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation.

(E) **Limitations on Enforcement.** In accordance with the Act [Section 4496] an action, injunction or other enforcement proceeding relating to any municipal permit or approval, including but not limited zoning permits, conditional use, site plan and variance approvals, certificates of occupancy or other municipal land use permits or approvals required by statute, ordinance or bylaw, may be instituted in accordance with the Act [Sections 4444, 4445] against the current owner or occupant, or both, of any street, building, structure, or land for any violation if:

- (1) the current owner or occupant is the person who first created the violation; or
- (2) the action, injunction or other enforcement proceeding is instituted in connection with a notice of violation properly recorded and indexed in the land records of the Town prior to the time the owner acquired title to or the occupant began occupancy of the street, building structure or land; or
- (3) the action, injunction, or other enforcement proceeding is instituted in within ten (10) years from the date the alleged violation first occurred and not thereafter [*except that in the case of a violation alleged to have first occurred between June 30, 1988 and July 1, 1998, the action shall be commenced within six (6) years of July 1, 1998 and not thereafter*]. The burden of proving the date the alleged violation first occurred shall be on the current owner or occupant; or
- (4) the action, injunction or other enforcement proceeding is instituted to abate or remove a hazard to human health or safety or to abate or remove an undue environmental impact.

Nothing in this subsection shall prevent any action, injunction or other enforcement proceeding against the person who first created the violation, whether or not the person is the current owner or occupant. As used here, "person" shall be defined in accordance with the statutory definition under the Act [Section 4496(c) (1),(2)].

**Section 6.9     Recording Requirements**

Pursuant to the Act [Section 4443(c)], within thirty (30) days after a municipal permit relating to land, structures, and other improvements to land, including but not limited to zoning permits and associated conditional use, variance, or site plan approvals, or certificates of occupancy, has become final, or within thirty (30) days of the issuance of any notice of violation, the Administrative Officer or other appropriate municipal official shall deliver a notice of violation or memorandum or notice of recording to the Town Clerk for recording as provided in 24 V.S.A. subsections 1154(a) or (b). The applicant may be charged for the cost of recording fees.

## Article VII. Definitions

### Section 7.1 Terms and Uses

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

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

- (1) the particular controls the general;
- (2) the present tense includes the future tense;
- (3) words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary;
- (4) the phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," and "occupied for;"
- (5) the word "shall" is mandatory; the word "may" is permissive; the term "generally shall" indicates that it is mandatory unless the DRB or other applicable body deems otherwise in accordance with these regulations;
- (6) the word "person" includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual, unless otherwise specifically defined herein;
- (7) the word "structure" includes "building;"
- (8) the word "lot" includes "parcel."

(C) For the purposes of flood hazard area regulations under Article V, National Flood Insurance Program definitions contained in 44 CFR Section 59.1 are hereby adopted by reference and shall be used to interpret and enforce these regulations. Definitions of some commonly used terms are provided herein.

(D) Any interpretation of words, phrases or terms by the Administrative Officer may be appealed to the DRB under Section 6.7 for a written declaratory ruling. In such cases, the Board shall base its ruling upon the following definitions, state statute, and the need for reasonable and effective implementation of this Bylaw. The Board shall publish and update from time to time such rulings of interpretation, to ensure consistent and uniform application of provisions of this bylaw.

### Section 7.2 Definitions

**Accessory Dwelling:** A separate, complete housekeeping unit, which is incidental to and contained within, attached to, or detached from a single-family dwelling, in which the title is inseparable from the primary dwelling. This definition shall include accessory units as defined under the Act [Section 4406(D).] Accessory dwellings may be used to provide lodging for relatives and/or invitees of the residents of the single family dwelling, or for household employees. In the case of an operating farm, the farmhouse and customary dwellings for farm laborers may be considered accessory to the agricultural use [See Sections 4.1, 4.2].

**Accessory Structure:** A structure, the use of which is incidental and subordinate to the principal use or structure and is located on the same lot. Examples of accessory structures include patios, permanent swimming pools, porches, garages, tool sheds, workshops, decks and gazebos, boathouses, and docks. See also Accessory Dwelling, Accessory Use.

**Accessory Use:** A use, which is incidental and subordinate to a principal use located on the same lot. Accessory uses may include home occupations, day care centers or group homes within single-family residences. See also Accessory Dwelling.

**Affiliated Ownership:** Ownership of two (2) or more parcels of land owned by an individual, partnership, corporation, association, unincorporated organization, trust or other legal or commercial entity, including a joint venture. Land will be considered in affiliated ownership if two or more parcels are held separately by an individual's parents, spouse and/or children, unless an individual establishes that he or she will derive no profit or consideration, or acquire other beneficial interest from a determination that two or more parcels are in non-affiliated ownership.

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

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

**Agriculture:** Land or structures primarily used for cultivating soils, producing crops, or raising livestock; orchards and maple sugar production; the storage, processing or sale of products raised on the premises; or as otherwise defined by the Commissioner of Agriculture, Food and Markets. Structures which are customarily accessory to agricultural uses and are located on the same parcel as an agricultural use shall be included in this definition. This definition does not include slaughterhouses. See also Accessory Dwelling, Farm.

**Alterations:** Structural changes, changes in location, or additions to a building, excluding ordinary repairs, or modifications. Also see Substantial Improvement.

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

**Area of Special Flood Hazard:** The land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year. The area may be designated as Zone A on Flood Hazard Boundary Maps (FHBMs), or is usually refined on Flood Insurance Rate Maps (FIRMs) into Zones A, AO, A1-30, AE or A99.

**Base Flood:** The flood having a one (1) percent chance of being equaled or exceeded in any given year.

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

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

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

**Building:** A walled and roofed structure. For purposes of flood hazard area regulation under Article II, this also includes gas or liquid storage tanks that are principally above ground.

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

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

**Building Height:** The height measured from the highest point on the top of a structure vertically to the lowest point of the natural grade at the foundation. See Section 3.6.

**Camp:** See Dwelling/Seasonal.

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

**Campground:** A parcel of land upon which two or more campsites are located for occupancy by a camper, tent, recreation vehicle, lean-to, or similar structure for use by the general public as temporary living quarters for recreation, education, or vacation purposes. **“Primitive” campgrounds** for the purposes of this bylaw are campgrounds which are essentially undeveloped (e.g., not serviced by power or other utilities) but which may include a designated water source, toilet facility (e.g., a pit or composting toilet) and/or a primitive shelter (e.g., a lean-to or hut). See also Lodging Facility, Recreation/Outdoor.

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

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

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

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

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

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

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

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

**Cottage Industry:** A commercial, manufacturing or light industrial use, which is housed in a single-family dwelling or in, an accessory structure to a single-family dwelling (see Section 4.6). See also Home Occupation, Light Industry.

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

**Day Care Facility:** A facility providing day care services, for profit or otherwise, for children and/or the elderly. Pursuant to the Act [Section 4409(f)] a state registered or licensed day care facility serving six (6) or fewer children shall be considered by right to constitute a permitted single-family residential use of the property.

**Development:** The division of a parcel of land into two or more parcels; the construction, reconstruction, substantial improvement, conversion, structural alteration, relocation or enlargement of any building or other structure; or of any mining, excavation or landfill; and any change in the use of any building or other structure, or land, or extension of use of land, pursuant to the definition of "land development" in the Act [Section 4303(3)]. See also Substantial Improvement.

**Development Road:** A private easement or right-of-way serving four (4) or more parcels. See also Driveway.

**Driveway:** An access, easement or right-of way serving a maximum of three (3) parcels.

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

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

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

**Dwelling/Seasonal:** A dwelling unit which is not the primary residence of the owner or occupant and is occupied only on a part-time or seasonal basis. This shall include, but may not be limited to: a dwelling which lacks one or more of the basic amenities or utilities required for year-round or all-weather occupancy, including a winterized water system, insulated walls and roof, heating source and an adequate wastewater disposal system; a dwelling which is designated as a vacation (V-1 or V-2) dwelling on the Fletcher Grand List (as of the effective date of these regulations); or a dwelling that specifically has been permitted as a seasonal dwelling.

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

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

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

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

**Essential Public Services:** The construction or installation (by public utilities, municipal or other governmental agencies or similar private utilities) of on-site “local consumer” electric, telephone, and cable distribution lines, water and sewer system distribution lines and hook-ups, junction and relay boxes, and similar essential accessory equipment or service lines necessary for the furnishing of essential services. Transmission towers and lines, water and wastewater treatment facilities and mains, solid waste disposal facilities and other such facilities are specifically excluded from this definition (see Public Facilities/Other).

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

**Family:** One (1) or more persons occupying a single dwelling unit and living as a single household or housekeeping unit.

**Farm:** One (1) or more parcels of land, either contiguous or non-contiguous, in individual or affiliated ownership and managed as a single agricultural enterprise. Agricultural land not in affiliated ownership but leased to a farm operator and managed as part of an agricultural enterprise shall not be considered as part of the active farm.

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

**Flood Insurance Rate Map (FIRM):** An official map of a community issued by the Federal Insurance Administrator on which both special hazard areas and risk premium zones applicable to the community have been delineated.

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

**Floodway:** The channel of a river or other water course 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 a designated height.

**Gas Station:** Any building, land area or other premises or portion thereof used or intended to be used for the retail dispensing or sales of vehicular fuels; and including as an accessory use the sale or installation of lubricants, tires, batteries, and similar accessories [see Section 4.5]. See also Motor Vehicle and Equipment Sales and Service.

**Group Home:** A residential structure or boarding house which provides, for profit or otherwise, room, board and/or personal care to less than six (6) residents who are unrelated to the operator. Pursuant to the Act [Section 4409(d)], a group home licensed or registered by the state which houses less than six residents, usually with medical or development disabilities, shall be considered by right to constitute a permitted single family use of the property, unless it is located within one thousand (1,000) feet of another such home. See also Community Care Facility.



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

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

**Interested Person:** A party who may legally appeal a decision to the DRB or Vermont Environmental Court (see Section 6.7).

**Junk Yard:** See Salvage Yard.

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

**Light Industry:** Any industrial use including but not limited to the manufacture, processing, fabrication, or storage of products (except where ancillary or accessory to another use permitted under this bylaw); having not more than thirty (30) employees during the largest shift, or occupying more than twenty thousand (20,000) square feet of gross floor area (see Section 4.7). See also Cottage Industry.

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

**Lot:** A parcel of land occupied or to be occupied by only one principal use, and accessory structures or uses customarily incidental to the principal use, unless otherwise approved as part of mixed use or Planned Unit Development. A lot shall have sufficient size to meet the zoning requirements for use, area, setbacks, density, and coverage, and to provide such yards, and other open areas as herein required. Such lot shall have frontage on a maintained public road or other legal access as approved by the DRB. For purposes of these regulations, a lot may consist of a single lot of record, a delineated portion of a lot of record, a combination of complete lots of record and/or delineated portions of lots of record; or a parcel of land described by metes and bounds.

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

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

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

**Lot of Record:** Any lot, which individually, or as part of a subdivision, has been recorded under proper procedural steps in the office of the Town Clerk.

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

**Mixed Use:** A structure or parcel containing two or more principal use types (see Section 4.8).

**Mobile Home:** A structure, transportable in one or more sections which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. This definition includes other forms of permanent housing manufactured off-site, but specifically excludes campers and other recreation vehicles (see Sections 3.4, 4.3). See also Campers.

**Mobile Home Park:** a parcel of land under single or common ownership or control, which is used (or is to be used) to accommodate three (3) or more mobile homes (see Section 4.9). See also state definition [10 V.S.A. §6201].

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

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

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

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

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

**Parking Space:** An off-street area of not less than one hundred and eighty (180) square feet exclusive of loading, access and maneuvering areas, landscaped areas, etc. to be used exclusively as a temporary storage space for one motor vehicle at a time (see Section 3.11).

**Planned Residential Development (PRD):** A proposal to the DRB for a unique and innovative residential project to provide a different arrangement of housing units other than that which is typically permissible under the provisions of this bylaw, in accordance with the Act [Section 4407(3)] and Section 5.3. See also Planned Unit Development (PUD).

**Planned Unit Development (PUD):** A proposal to the DRB for a unique and innovative mixed use project to provide a different mixture, density and arrangement of uses other than that which is typically permissible under this Bylaw, in accordance with the Act [Section 4407(12)] and Section 5.3. See also Planned Residential Development (PRD).

**Primitive Shelter:** This shelter has no amenities and can be only occupied on an occasional basis.

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

**Public Facility/Office:** Office and/or meeting facilities open to the public, which are intended for use by any municipal, state or federal government, public utility or other quasi-public institution, excluding educational facilities. See also Educational Facility, Public Facility/Other.

**Public Facility/Other:** A facility or utility maintained by municipal, state or federal government, a public utility or other semi-public institution which is not usually open or accessible to the public, including but not limited to solid waste management facilities; ambulance and fire stations; garages and equipment sheds; water and wastewater treatment facilities; electric generation, substation and transmission facilities; and gas pipelines. Distribution lines and connections serving individual properties and/or uses are specifically exempted from this definition. See also Essential Public Services.

**Qualified Person:** A professional engineer licensed by the state or a site technician certified by the state to design and inspect wastewater disposal systems.

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

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

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

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

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

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

**Salvage Yard:** Land used for the outdoor collection, storage or sale of waste metal or other discarded materials, or for the collection, wrecking, dismantling, storage, salvage or sale of machinery or vehicles which are not inspected and not in operating condition. An area in excess of two hundred (200) square feet shall be deemed a "salvage yard" if so used.

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

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

**Sign:** Any structure, display, device, or representation, which is designed, used or placed as an announcement, direction or advertisement. The word “placed” for the purpose of this definition shall include erected, constructed, or otherwise fastened, affixed or made visible in any manner whatsoever (see Section 3.13).

**Street Line:** Edge of right-of-way of a street, either public or private, as dedicated by a deed of record. Where width of street is not established, the street line shall be considered to be twenty-five (25) feet from the centerline of the traveled way.

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

**Structure Height:** The vertical distance measured from the lowest grade at ground level at the base of the structure to the highest point of such structure (see Section 3.6).

**Substantial Improvement:** Construction, reconstruction, addition, alteration or replacement of an existing structure which results in new floor space or building area in excess of fifty (50) square feet, or an increase in the generation of wastewater. Also see Alterations.

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

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

**Wetlands:** Those areas of the state that are inundated by surface or groundwater with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include, but are not limited to, marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs and ponds, but excluding such areas as grow food or crops in connection with farming activities.

**Yard:** An open space abutting all property lines of a lot, unoccupied by a structure from the ground upward, except as otherwise provided in these regulations. The required yard distances shall be determined in the same manner as the setback. See also Setbacks.