



Town of West Rutland

35 Marble Street, West Rutland VT 05777 (802) 438-2204 Fax (802) 438-5133

DRAFT (prepared 6/13/22)

ZONING REGULATIONS

with Attachments for
Flood Hazard Area Regulations & Zoning Map

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Adopted May ____, 2022

These Regulations replace the regulations adopted June 30, 2008

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Commented [SS1]: Recommend having this as a zoning district overlay instead of an attachment - moving this to the main contents of the bylaws. Having it separate is confusing; flood hazard review criteria will apply to any proposal within a flood hazard area, so easier to find if included in the heart of the regs.

Commented [SS2]: Recommend pulling this out of the regulations. The regs can state the required contents/elements of a CO application. But if the form is included in the regs, the PC would need to follow the onerous bylaw amendment process of 24 v.s.a. 4441-4442 which is unnecessary for the application form.

ARTICLE I: ENACTMENT, OBJECTIVES AND PURPOSE

Section 101: Enactment

In accordance with the Vermont Planning and Development Act, Chapter 117 of Title 24 of the Vermont Statutes Annotated, hereinafter referred to as the "Act", there are hereby established Zoning Regulations for Town of West Rutland which shall be known and cited as the "Town of West Rutland Zoning Regulations" and referenced herein as the "Zoning Regulations."

Commented [SS3]: May want to refer generally to "Authority and Purpose" in the title and then keep subheadings.

Commented [SS4]: This is how it is referenced throughout.

Section 102: Purpose

These regulations promote the health, safety, and general welfare of the people of West Rutland. Specific objectives are to protect and enhance the value of property, prevent overcrowding of land and undue concentration of population, and to provide for orderly community growth.

Commented [SS5]: Is this specified in the town plan? Be sure it's consistent. Also may want to reference the purposes and goals in 24 VSA 4302.

Section 103: Objectives and Intent

The objective of the Zoning Regulations is to establish standards and policies concerning development of land, which further the goals of the West Rutland Town Plan. It is intended that the standards and policies established by the Zoning Regulations reflect and express a sense of community values toward West Rutland's environment including the value of appearance and congenial arrangement for the conduct of farming, trade, industry, residential and other uses of land necessary to the community's well-being insofar as such values are related to the objectives of the adopted Town Plan.

ARTICLE II: ESTABLISHMENT OF ZONING DISTRICTS AND ZONING MAP

Section 201: Establishment of Zoning Districts

The Town of West Rutland hereby establishes the following seven (7) major Zoning Districts and three (3) Special Districts (formerly referred to as Overlay Zoning Districts) which may impact any Zoning District. The permitted uses and conditional uses allowed in each district are as specified in Article III: Table of Uses. The minimum lot sizes, set-back requirements, lot frontages requirements and height limitations for each district are as specified in Article V.

Commented [SS6]: The "Purpose" section of each district must define the character of the area that the DRB should apply per Section 401 and 4414(3) (conditional use review), so be sure they are detailed and conform with the Town Plan.

Commented [KR7]: Formatting. This whole section is devoid of subsections. Clear and consistent formatting makes the document more clear, easier to read, and easier to reference.

I have used the village section as an example, but you should apply this type of format throughout. See the links in the cover letter to local regulations with good formatting structure

1. Village (V) Including former Village Residential Zone

a. Description: The West Rutland village area is the school, civic and cultural focus of the Town. The pattern of densely settled, mixed-use, residential and commercial structures and various municipal buildings is similar to many traditional Vermont settlements. This area also contains a very high concentration of historic structures including Main Street and the Marble Street Historic District, which is listed in the National Register of Historic Places.

b. Purpose: To maintain the economic vitality and compatible mix of residential and commercial uses at the center of the community as well as preserve the historic integrity of the village.

c. Special District Issues: There may be some land within this district that are within the Special Flood Hazard Area.

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Industrial (I)

Description: There are three distinct areas that comprise this district. One is predominantly along the northern length of Marble Street beginning near Thrall Avenue and extending to where the name changes to True Blue Road. The remains of the marble operations, vacant buildings, machinery, and quarries make this a suitable location for industrial redevelopment. The second is the West Rutland Industrial Park, located on Sheldon Avenue. The third is the recycling facility on Casella Lane.

Purpose: To allow for industrial and commercial development in order to expand the town's economic base.

Special District Issues: There may be some land within this district that is within the FEMA Special Flood Hazard Area and the Source Water Protection Overlay District.

Commercial (C - formerly VC1 & VC2)

Description: Located primarily in the areas of Thrall and Clarendon Avenues and Business Route 4 (aka Rutland Road) between the Village and the border with Rutland Town and the Parcel Lot Number (000442) – known as the Jagodzinski Farm.

Purpose: This District accommodates concentrations of retail, service and other businesses outside the central Village District. **Maintain and extend the commercial character of this area.**

Special District Issues: There may be some land within this district that are within the Special Flood Hazard Area.

Neighborhood Residential District (R-1)

Description: Medium density residential neighborhoods that surround the Village, most of which are served by municipal amenities such as water and sewer.

Purpose: To provide medium density residential development including subdivisions, multifamily structures, condo/townhouse units, and single-family homes.

Special District Issues: There may be some land within this district that are within the Special Flood Hazard Area (see Section 201.H) and Source Water Protection Overlay District.

Rural Residential - Agricultural (R-II)

Description: Rural areas outside the village, with lower density residential use, mixed agricultural uses, and low impact Commercial uses in certain designated areas.

Purpose: To provide land area for low-density residential development, farming, forestry, greenhouses, recreation, and other rural land uses including low impact business activities.

Special District Issues: There may be some land within this district that are within the Special Flood Hazard Area and Source Water Protection Overlay District.

Commented [KR8]: Potential issue with "spot zoning" which is an unconstitutional use of zoning power.

This appears to be special zoning for one parcel, which will often be considered spot zoning unless the other 3 factors are clearly not satisfied - e.g the use isn't very different from the prevailing use in the area; the classification isn't only for the benefit of the landowner; and the change doesn't comply with the plan.

Commented [SS9R8]: I think the Industrial Park could also be considered spot zoning, depending on the property. You may want to look to your town plan to see how the area is described as the bylaws are to carry out that vision so they should align.

Conservation I

Description: Lands generally between the 800-foot and 1000-foot contours that are sensitive to development for a variety of reasons. They are generally characterized by significant natural resources such as dense forests, steep hills often with shallow soils, wetland areas and stream banks, among others or areas of scenic, cultural or historical significance.

Purpose: To provide a buffer zone between the most restrictive zoning district and other districts. Preservation of natural features and wildlife habitat are a priority.

Special District Issues: There may be some land within this district that are within the Special Flood Hazard Area, Source Water Protection Overlay District, and the Ridgeline Overlay District.

Commented [KR10]: Lack of Clarity. These elevations are based on what map? The term "contours" implies to me that the elevations will be based on a map and its contour lines. Therefore it should be noted somewhere which map is the to be used for determining the elevation.

If the intent is for it to be based on elevation where it could be proved by the applicant with field measurements rather than based solely on a map, it would be worth changing "contours" to "feet in elevation" or "feet above mean sea level"

Commented [KR11R10]: Based on Zoning map? Section 202

Commented [KR12]: Or?

Commented [SS13R12]: Might be "and/or"

Conservation II

Description: Lands above the 1,000-foot contour, or lands that are very steep, or lands that are in the floodplain. They are generally characterized by significant natural resources such as dense forests, steep hills often with shallow soils, wetland areas and stream banks, among others or areas of scenic, cultural or historical significance.

Purpose: The most restrictive of the zoning districts. To provide land area for low-impact recreational uses, such as nature and hiking trails and very limited residential development, farming, forestry, and recreation. Residential development above 1,000-foot contour should blend in with its surrounding area and minimize ecological impact.

Special District Issues: There may be some land within this district that are within the Special Flood Hazard Area and the Ridgeline Overlay District.

Commented [KR14]: Contour/elevation?

Commented [SS15]: Define. Definition should include specific measurable attributes. E.g. greater than 15% grade

Commented [KR16]: Contour/elevation?

Commented [SS17]: And/or?

OTHERS SPECIAL DISTRICTS:

FEMA Special Flood Hazard Areas (SFHA) - formerly referred to as Flood Hazard Overlay

Description: All lands in the Special Flood Hazard Areas (and possible River Corridors) in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Chapter 32 § 753, which are hereby adopted by reference and declared to be part of these regulations.

Purpose: It is the purpose of this district and its regulations to promote the public health, safety, and welfare, to control development of lands in areas of special flood hazard, and to minimize losses due to floods by:

- A. Restricting or prohibiting uses that are dangerous to health, safety or property in times of flood, or that cause excessive increase in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including public facilities that serve such uses, be protected at the time of initial construction, against flood damage;
- C. Protecting individuals from buying lands that are unsuitable for their intended purposes because of flood hazard.

Commented [SS18]: Suggest adding this to description.

Commented [KR19]: This is vague and raises more questions - I would remove

Commented [SS20R19]: I agree it's confusing. It may overlap another overlay but just focus on this hazard area/district.

Commented [KR21]: This is not the town's responsibility - I recommend removing. It may be a reasonable purpose of the flood regs to discontinue development or redevelopment of flood prone areas or something similar for general safety and to protect the town's residents from the costs associated with flood repair and reconstructing, but the town is not in the business of protecting theoretical buyers from making poor choices.

Ridgeline Overlay District (See Attachment D)

- a. Description:** Lands above the 800 foot contours.
- b. Purpose:** To provide very limited residential development which blends in with its surroundings and minimizes ecological impact. Also to provide land area for low impact recreational uses.

c. Conditional Uses: All uses or structures listed as permitted or conditional in Article III Table of Uses, except agriculture, forestry and municipally owned parks in the underlying zoning district are treated as a conditional use. In addition to the standards set forth in Sections 401-404, when reviewing applications for conditional uses within the Ridgeline Overlay District, the Development Review Board shall consider the following:

~~a. All uses or structures listed as permitted or conditional in Article III Table of Uses, except agriculture, forestry and municipally owned parks in the underlying zoning district are treated as a conditional use.~~

~~b. In addition to the standards set forth in Sections 401-404, when reviewing applications for conditional uses within the Ridgeline Overlay District, the Development Review Board shall consider the following:~~

1. Placement of Structures Careful consideration shall be given to the location of proposed structures relative to site conditions, existing vegetation, and the location of fragile features (including but not limited to steep slopes, streams and identified habitat and natural areas). The Board may limit or restrict the location of structures to ensure that development:

- ~~a.A.~~ Is minimally visible from public roads and properties, does not stand in contrast to surrounding landscape patterns and features, and does not serve as a visual focal point;
- ~~b.B.~~ Is located down-grade of ridgelines and prominent knolls, is designed so that the height of any structures does not visually exceed the height of the adjacent tree canopy or ridgeline serving as the visual backdrop to the structure;
- ~~c.C.~~ Will not adversely affect natural and scenic resources and fragile areas identified in the West Rutland Town Plan, including wetlands, streams, critical habitat, steep slopes, areas of unstable soils and/or soil types that are generally unsuitable for development and on-site septic disposal.

2. Clearing and Landscaping: On wooded sites, existing forest cover shall be maintained adjacent to proposed structures to interrupt the façade of buildings, provide a forested backdrop to structures, and/or soften the visual impact of new development as viewed from public roads and properties. The Development Review Board shall consider the location of proposed structures relative to existing vegetation, and may require additional tree planting and/or limit the amount of clearing adjacent to proposed development to provide screening and maintain a forested backdrop. A plan for the maintenance of remaining and proposed trees may be required. Such a plan shall address specific measures to be taken to ensure the survival and if necessary, replacement of designated trees during or after site development and the installation of all site improvements.

3. Building Design. The Development Review Board shall consider the overall design of new structures (including the proposed scale, location and materials), and may impose conditions

Commented [KR22]: Contour/elevation?

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Commented [SS23]: May want to include the "why" to these limitations. E.g. to maintain sensitive areas, aesthetics of nature, etc. Look to town plan for all district descriptions.

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Commented [KR24]: Define

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related to the overall design to minimize visual impacts, such as glare, contrasting colors and building material, as viewed from public roads and properties.

4. **Erosion Control.** Development shall minimize the removal of native vegetation and grading. Clearing may be limited to one or more portions of the property to prevent erosion and sedimentation of streams; buffer areas may be required to protect streams, wetlands and other fragile features.
5. **Forest Management.** Forest management activities shall comply with all applicable state regulations and shall, as a minimum standard, comply with *Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont*, as revised, published by the Vermont Department of Forests, Parks & Recreation.
6. **Site Restoration.** Forest management activities intended as site preparation prior to development of a site, including road and driveway construction, clearing and/or grading for house-sites and septic systems or related work, shall be reviewed by the Board under this bylaw. Where a landowner fails to submit such a plan for review, the Board may limit development to the non-impacted portion of the property and/or require the site to be restored or re-vegetated prior to development.

Source Water Protection Overlay District (See Attachment C)

Purpose: The Purpose of the Source Water Protection Overlay District is to protect public health and safety by preserving and protecting the community's ground water source from incompatible uses and development. Zones within the overlay district are based on the findings of the West Rutland Fire District Wellhead Protection Area and Source Water Protection Plan

Zones: Zones within the Source Water protection Overlay District

1. **Zone 1** includes the source of West Rutland's drinking water and is defined on the attached map. All of the land in this zone is owned by the Town of West Rutland. Wherever possible, the area shall be free of potential sources of contamination.
 - a. The area in Zone 1 shall remain free of any structures or uses not associated with the water source or recreation. No underground storage tanks are permitted in this area. No herbicides or pesticides may be used in this area.
 - b. No structure may be erected in Zone 1 without written approval by the West Rutland Water Department. The Development Review Board reserves the right to review any proposed structure according to the standards set forth in section 2.2(a).

D. Zones 2 and 2A - Secondary Zones

Description: Zones 2 and 2A include the area directly west and south of Zone 1 but within the approximate 6-month time-of-travel distance mapped around all the public water supply well(s).

Conditional Uses. The following uses are permitted only under the terms of a conditional use permit and must conform to provisions of the underlying zoning district and meet the performance standards outlined in section 3.1.

Expansion of existing nonconforming uses to the extent allowed by the underlying district. The applicant should consult Article III: Table of Uses to confirm nonconforming uses. Uses that are permitted or conditional in the underlying zone district and which are not subject to section 2.2(b) below.

Commented [SS26]:

Commented [SS27R26]: These are review criteria ("placement of structures" on) and not part of the description of a district. They don't belong in the description/purpose section. They'll get lost and should be in a review criteria/standards section.

Commented [KR28R26]: Formatting - see proposed language for clarity. Use this format when formatting is noted as an issue. I agree with Susan's assessment above about this section being in regards to review criteria and not part of a district description, and it should thus ideally be moved. I think locating most of this in the Section 404 (as well as other district specific considerations for the DRB) with a subtitle along the lines of *Special District Considerations*, include each district below that as a subheading, and then their considerations below. Likewise, you should fit some of these provisions into their existing subsections in 404 where applicable - e.g. landscaping - as well as Article X General Regulation where applicable.

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Commented [KR29]: reference

Commented [KR30]: Where is 2.2(b) - fix citation. *this is why clear and consistent formatting is so important*

The Development Review Board reserves the right to review all applications, with the Water Department as technical advisors, and shall not grant approval unless it finds such expansion does not pose greater potential contamination of groundwater than the existing use.

~~Uses that are permitted or conditional in the underlying zone district and which are not subject to section 2.2(b) below.~~

Prohibited Uses in the Source Water Protection Overlay District: The following uses are prohibited within Zones 2 and 2A. (Existing uses listed as “prohibited” below may continue and may be expanded pursuant to section 2.2(a) and 2.2(a).i.)

- a) Automobile body/repair shop;
- b) Gas station;
- c) Dry cleaner / Laundromat;
- d) Electrical/electronic manufacturing facility;
- e) Machine shop;
- f) Metal plating/finishing/fabricating facility;
- g) Chemical processing/storage facility;
- h) Wood preserving/treating facility;
- i) Junk/scrap/salvage yard;
- j) Mines/gravel pit
- k) Irrigated nursery/greenhouse stock
- l) Confined animal feeding operations
- m) On-site wastewater disposal systems;
- n) Equipment maintenance/fueling areas;
- o) Injection wells/dry wells/sumps - except for single-family residences directing gutter downspouts to a dry well. In all cases, sumps must be encased.
- p) Underground storage tanks - except those under 300 gallon capacity, with spill, overfill, & corrosion protection requirements in place.
- q) All other facilities involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or waste having potentially harmful impact on groundwater quality;
- r) All uses not permitted in the underlying zone district.

Additional Requirements for Zone 2A. In addition to the requirements listed in sections 2.1 and 2.2 above, the following uses are prohibited in Zone 2A:

- s) Underground storage tanks

Commented [KR31]: Superfluous, unnecessary

Commented [SS32R31]: Maybe "in this district"

Commented [KR33]: Where is 2.2(b) - fix citation. *this is why clear and consistent formatting is so important*

- t) Pesticides and herbicides

E.

F. Zone 3 - Source water recharge area.

Zone 3 is defined as the area outside Zones 1, 2 and 2A, but deemed necessary to ensure adequate protection of public drinking water supplies.

Permitted Uses: All uses permitted in the underlying zoning districts provided that they can meet the Performance Standards outlined in section 3.1.

Conditional Uses: All uses listed as conditional in the underlying zoning district may be approved by the Development Review Board, with the Water Department as technical advisors, provided they can meet performance standards outlined for the Groundwater Protection Overlay District and the applicable provisions set forth in Article IV: Conditional Uses.

G. Performance Standards

The following standards shall apply to all uses in the Source Water Protection Overlay District:

- u) Any facility, other than ~~singleone and two-family housingdwellings~~, involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or wastes, unless granted a special exception either through permit or another ordinance, must have a secondary containment system which is easily inspected and whose purpose is to intercept any leak or release from the primary containment vessel or structure. Underground tanks or buried pipes carrying such materials must have double walls and inspect able sumps.
- v) Open liquid waste ponds containing materials referred to above will not be permitted without a secondary containment system.
- w) Storage of petroleum products in quantities less than 300 gallons at one locality must have spill, overfill, and corrosion protection requirements in place.
- x) For all permitted facilities storing more than 300 gallons for petroleum products or other hazardous materials, an acceptable contingency plan must be prepared for preventing contamination should floods, fire, or other natural catastrophes, equipment failure, or releases occur:
- y) For flood control, all underground facilities shall include but not be limited to a monitoring system and secondary standpipe above the 100-year flood control level, for monitoring and recovery. For above ground facilities, an impervious dike, above the 100-year flood level and capable of containing 100 percent of the largest volume of storage, will be provided with an overflow recovery catchment area (sump).
- z) For fire control, plans shall include but not be limited to a safe fire-fighting procedure, a fire retarding system, effective containment of any liquid runoff, and provide for dealing safely with any other health and technical hazards that may be encountered by disaster control personnel in combating fire. Hazards to be considered are pipes, liquids, chemicals, or open flames in the immediate vicinity.
- aa) For equipment failures, plans shall include but not be limited to:

Commented [SS34]: Because no changes to the underlying district permitted/conditional uses, I recommend removing these provisions.

Commented [SS35]: This provisions should be removed from the district description section and kept in/moved to standards/criteria section (general regulation). It's review criteria not a district description

Commented [KR36R35]: Just because it only applies to one district doesn't mean it is part of the description - its still review criteria. As I mentioned above, you could include this in section 404, but I believe it is more appropriate in Article X. You can give it its own section and merely note this applies only to this district.

Commented [KR37]: Consistency

Commented [SS38R37]: And reminder to use terms that are defined in the bylaws throughout.

- bb) Below ground level, removal and replacement of leaking parts, a leak detection system with monitoring, and an overfill protection system.
- cc) Above ground level, liquid and leaching monitoring of primary containment systems, the replacement or repair and cleanup and/or repair of the impervious surface.
- dd) For any other release occurring, the owner and/or operator shall report all incidents involving liquid or chemical material to the groundwater protection coordinator designated by the Selectboard
- ee) Since it is known that improperly abandoned wells can become a direct conduit for contamination of groundwater by surface water, all abandoned wells should be properly plugged according to local and state regulations.

H. LIABILITY

Nothing in this ordinance shall be construed to imply that the Selectboard has accepted any of an owner/developer's liability if a permitted facility or use contaminates groundwater in any aquifer.

DEFINITIONS for Source Water Protection Overlay District:

For the purposes of this section, the following terms are defined below:

AQUIFER. A geological formation, group of formations or part of a formation composed of rock, sand or gravel capable of storing and yielding groundwater to wells and springs.

CONTAMINATION. An impairment of water quality by chemicals, radio nuclides, biologic organisms, or other extraneous matter whether or not it affects the potential or intended beneficial use of water.

DEVELOPMENT. The carrying out of any construction, reconstruction, alteration of surface or structure or change of land use or intensity of use.

FACILITY. Something that is built, installed, or established for a particular purpose.

GREY WATER. All domestic wastewater except toilet discharge water.

HAZARDOUS MATERIAL. A material, which is defined in one or more of the following categories:

IGNITABLE: A gas, liquid or solid which may cause fires through friction, absorption of moisture, or which has low flash points. Examples: white phosphorous and gasoline.

CARCINOGENIC: A gas, liquid, or solid which is normally considered to be cancer causing or mutagenic. Examples: PCB's in some waste oils.

EXPLOSIVE: A reactive gas, liquid or solid, which will vigorously and energetically react uncontrollably if exposed to heat, shock, pressure or combinations thereof. Examples: dynamite, organic peroxides and ammonium nitrate.

HIGHLY TOXIC: A gas, liquid, or solid so dangerous to man as to afford an unusual hazard to life. Example: chlorine gas.

MODERATELY TOXIC: A gas, liquid or solid, which through repeated exposure or in a single large dose can be hazardous to man.

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Commented [SS39]: Is this necessary?

CORROSIVE: Any material, whether acid or alkaline, which will cause severe damage to human tissue, or in case of leakage might damage or destroy other containers of hazardous materials and cause the release of their contents. Examples: battery acid and phosphoric acid.

PRIMARY CONTAINMENT FACILITY. A tank, pit, container, pipe or vessel of first containment of a liquid or chemical.

RELEASE. Any unplanned or improper discharge, leak, or spill of a potential contaminant including a hazardous material.

SECONDARY CONTAINMENT FACILITY. A second tank, catchment pit, pipe, or vessel that limits and contains liquid or chemical leaking or leaching from a primary containment area; monitoring and recovery are required,

SHALLOW/SURFICIAL AQUIFER. An aquifer in which the permeable medial (sand and gravel) starts at the land surface or immediately below the soil profile.

SPILL RESPONSE PLANS. Detailed plans for control, recontainment, recovery, and cleanup of hazardous material releases, such as during fires or equipment failures.

STORMWATER TREATMENT PRACTICES (STPs). Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

TIME-OF-TRAVEL DISTANCE. The distance that groundwater will travel in a specified time. This distance is generally a function of the permeability and slope of the aquifer.

Commented [SS40]: Suggest moving this to definitions at the end, even if it's under a subheading for this district.

Commented [KR41R40]: E.g. you make the general definitions Section 1501, and then add these as Section 1502

Section 202: Zoning Map:

The location and boundaries of Zoning Districts are established as shown on the Official Zoning Map, which is hereby made a part of these zoning regulations. No changes shall be made to the Official Zoning Map except in accordance with the procedures for amending zoning regulations.

Where available, the base flood elevations and floodway limits provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps dated 8/28/2008 shall be used to determine the relationship of a proposed development to the area of special flood hazard. In areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program (i.e., Zone A), base flood elevation and floodway information available from state or federal agencies or other sources shall be obtained and reasonably used.

Regardless of the existence of copies of the Official Zoning Map, which may from time to time be made or published, the Official Zoning Map shall be that located in the Town Clerk's office; signed and dated by the Planning Commission Chairperson. It shall be the final authority as to the current zoning status of land and water areas.

Section 203: Interpretation of Zoning District Boundaries:

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

1. Boundaries, which approximately follow the centerlines of roads, streams, transportation and utility rights-of-way, shall be construed to follow such centerlines.
2. Boundaries which approximately follow lot lines shall be construed to follow such lot lines;
3. Boundaries that follow shorelines shall be construed as the low mean water level.

Commented [SS42]: Might want to add "and shall move with such centerlines" for stream meandering, etc.

4. **Boundaries**, which are parallel to or extensions of features in A through C above, shall be so construed.

Where circumstances are not covered by 1 through 4 above, the Development Review Board shall interpret the district boundaries in consultation with the Development Review Board.

Commented [KR43]: Add #5 regarding contour lines

Commented [SS44R43]: Unless those references are changed to elevation levels which is probably clearer.

Commented [KR45]: Is this supposed to be 1-3?

Commented [KR46]: DRB can't consult w/ DRB - DRB/PC?

ARTICLE III: TABLE OF USES

Section 301: **Following are the different Categories of Uses:**

- a. **Permitted Uses** are ~~usually~~ approved by the Zoning Administrator ~~without Town Development Review Board (DRB) review~~.
- b. **Conditional Uses** require ~~the~~ review by the DRB. Approval may be granted with specific conditions attached (refer to Article IV).
- c. **Exempt Uses** (refer to Section 1103) do not require a Town permit; but do not also exempt the Use from applicable sections of the Zoning Regulations (example: Article V: minimum setbacks). If the project does not clearly qualify as an Exempt Use, as determined by the Zoning Administrator; a Town permit is required. Further, *Exempt Uses* do not exempt the Owner/Applicant from any state or federal approval requirements a project may require. (refer to Section 1103).
- d. **Prohibited Uses** are not allowed in the Town of West Rutland. If the Table of Uses does not indicate a specific use as Permitted, Conditional, or Exempt, the Use will be considered Prohibited, unless and until a different determination is issued by the Development Review Board (see Other Uses; Section 1019).

Commented [SS47]: I'd rename to something more accurate like "District Summary Table" or something of the like. It's not just a table of uses, it's identifying what is allowed and not allowable.

Commented [KR48]: Assuming you rename this Article "District Summary," I would move Article V here and rename as Section 301, then followed by the 302 Categories of uses and 303 Table of Uses. Combines all generally applicable district specific info into one article.

Commented [SS49]: This doesn't make sense. Permitted uses only require admin review. What does this mean? I'd also strike "without..." as that's implied.

Commented [SS50]: Approval with "specific, reasonable conditions attached that relate to the review criteria" or something?

Commented [SS51]: This is getting into review criteria a bit. I'd keep it "do not require a town permit so long as the exemption criteria are met" and then section 1103 should spell out admin determination of exemption is required, all minimum standards for setbacks must be met, etc.

Commented [SS52]: Conflicts with the prohibition - prohibition, except. Very unclear and vague. What are the standards that would allow DRB to approve?

Commented [KR53R52]: I would strike this provision. But I agree, the DRB would at minimum need standards to make this determination

Section 302: If a proposed Use does not reasonably fit into any category in Article III (Table of Uses), the proposed Use may be treated as a Conditional Use (per Article IV), **provided** that the anticipated impacts of the proposed Use will be no greater than the impact of at least one (1) similar use that is expressly allowed (either as a Permitted or Conditional Use) in the district in which the proposed use is to be located. Review and approval for proposed use by DRB required.

Commented [KR54]: I recommend striking this provision. It is vague and potentially unenforceable. I think it is best to list those things that are allowed and those that are not and leave it there. If your goal is to try and leave room for unanticipated uses that might be compatible, I think the best you can do is leave some wiggle room in your specific use definitions and standards such that similar activities could still be reviewed - e.g. not too specific.

ARTICLE III: TABLE OF USES

All uses are subject to the requirements of Article IV: Conditional Use Permits (Conditional Uses) as applicable.

P = Permit Uses C = Conditional Uses E = Exempt Uses

Any Uses Not Specifically or Conditionally Permitted are Prohibited (Refer to Section 302 for Exceptions)

Article III Table of Use	Village	Comm.	Industrial	Neigh. Resid. R1	Rural Res R2	Con 1	Con 2	Notes
Accessory Apartment	P	P	P	P	P	P	P	
Accessory Building	P	P	P	P	P	P	P	
Accessory Use	P	P	P	P	P	P	P	
Agricultural Use or Structures	E	E	E	E	E	E	E	Must qualify – if Exempt under 10VSACH1171 Section 6001
Alcoholic Beverage Sales Wholesale	C	P	P					
Associations, Lodges & Clubs	C	C	C	C	C	C		
Automobiles, Trucks, Vans under GVW 18000 lbs., and light trailers								
• Auto Body	P	P	P					
• Car Wash	P	P	P					
• Repair Mechanical	P	P	P					
• Sales	P	P	P					
• Service Stations – Gas and Electric		P	P					
• Storage (see Enclosed Storage)		P	P					
Commercial & Domestic Small	P	P	P	C	C			

Commented [SS55]: I find this chart incredibly convoluted and confusing.

Commented [KR56R55]: Agreed, but I would still keep it and add an S for site plan. I would also create a table or list for each district that notes Permitted, Site Plan Review, and Conditional Uses for each use to be located in the district section - see Article V comments .

Commented [KR57]: Add an "S" for site plan and note all uses that only require site plan review

Commented [KR58]: Conflict with 302 if 302 not removed

Retail Sales, Service & Rental								
Commercial & Industrial Large Retail Sales, Service & Rental		C	C		C			For examples, see Mall, Warehouse, Wholesale
Bank with or without Drive-Thru ATM	C	P	P					
Bed & Breakfast	C	P	P	C	P	P	P	
Brew Pub /Pub/Microbrewery/Bar/Tavern	C	P	P	P				
Brewery/Winery/Distillery	C	P	P	C				
Building Materials Sales/Storage		P	P		C			

ARTICLE III: TABLE OF USES

All uses are subject to the requirements of Article IV: Conditional Use Permits (Conditional Uses) as applicable.

P = Permit Uses

C = Conditional Uses

E = Exempt Uses

Any Uses Not Specifically or Conditionally Permitted are Prohibited (Refer to Section 302 for Exceptions)

Commented [KR59]: Conflict with 302 if 302 is not removed.

<u>Article III Table of Use</u>	Village	Comm.	Industrial	Neigh. Resid. R1	Rural Res R2	Con 1	Con 2	Notes
Camp – Daytime	P	C		P	P	P		
Camp – Overnight					C	C	C	
Camp Grounds Camping Trailer Park					C	C	C	
Cemetery (Commercial, Private, Family, Pet)				P	P	P	P	
Churches, Temples, Places of Worship	P	P	P	P	P	P		
Clinics - Licensed Health/Therapy	P	P	P					
Community Center	P			P	P	P	P	
Concrete Product Sales – Wet Mix		P	P					
Contractor Yards		C	P		C			
Controlled Substances Example: Cannabis	C	C	C	C	C	C	C	Vt. & Fed. Permit Required
Convenience Store with Fuel Sales		C	C					
Convenience Store Without Fuel Sales	P	P	P					
Cottage Industry		P	P		C			

Commented [SS60]: Be sure these match the defined terms and are used throughout the bylaws consistently.

Commented [KR62]: May run afoul of cannabis law - "effectively prohibiting cannabis establishments" since there is no fed permit in existence. Suggest removing "Fed permit"

Commented [KR61]: This should be renamed "cannabis establishment" as they are the only controlled substance you have authority to regulate

Country Inn	C			C	C	C		
Dairies – Processing		P	P		C			
Day Care – Adult Group Home	P	C		P	P	P		
Day Care - Child <6 /Day	P			P	P	P	P	
Day Care - Child >6 /Day	C			C	C	C	C	
Drive-in/up Service/Facility Including Restaurants	P	P	P					
Dwellings								
• Multiple Family (mixed use)	P	P		C	C			
• Single One Family	P			P	P	P	P	
• Two Family	P			P	P	P	P	

Commented [KR63]: Use bylaw's defined terms consistently.

Commented [SS64]: Use bylaw's defined terms consistently.

ARTICLE III: TABLE OF USES

All uses are subject to the requirements of Article IV: Conditional Use Permits (Conditional Uses) as applicable.

P = Permit Uses **C** = Conditional Uses **E** = Exempt Uses

Any Uses Not Specifically or Conditionally Permitted are Prohibited (Refer to Section 302 for Exceptions)

Commented [KR65]: Conflict with 302 if 302 not removed

Article III Table of Use	Village	Comm.	Industrial	Neigh. Resid. R1	Rural Res R2	Con 1	Con 2	Notes
Earth Resources Extraction			P		C			
Fire Station (See Municipal Facilities)	P	P	P		C			
Forestry (see Agricultural Use)								
Funeral Home without Crematories	P	P	P					
Fuel Storage & Distribution		C	P		C			
Fuel Storage – Bulk		C	P					
Garden Center	P	P	P		P			
Golf Courses					C	C		
Home Occupation	P	P	P	P	P	P	P	
Kennels, Animal Housing Facility		C	C		C	C		
Landscaping Contractor		P	P		C			See Garden Center; Contractor Yard
Laundromat	P	P	P					
Mall – Retail Sales		P	P					
Manufacturing – Light	C	P	P					
Motel / Hotel		P	P					

Municipal Facilities	P	P	P		P			
Nature Preserves			P	P	P	P		
• Commercial Shooting Range		C	C		C			
Nursing Homes	C	C		C	C	C		
Office Building	P	P	P					
Parks, Municipally Owned	P	P	P	P	P	P	P	
Pet Shops	C							
Pharmacy	P	P	P					
Planned Unit Development	C	C		C	C	C		
Professional Office	P	P	P					

ARTICLE III: TABLE OF USES

All uses are subject to the requirements of Article IV: Conditional Use Permits (Conditional Uses) as applicable.

P = Permit Uses **C** = Conditional Uses **E** = Exempt Uses

Any Uses Not Specifically or Conditionally Permitted are Prohibited (Refer to Section 302 for Exceptions)

Commented [KR66]: Conflict with 302 if 302 not remove.

Article III Table of Use	Village	Comm.	Industrial	Neigh. Resid. R1	Rural Res R2	Con 1	Con 2	Notes
Recreational Vehicles Sales & Service (See Auto Vehicle Sales)	P	P	P					
Recycling Station / Solid Waste		C	C					
Renewal Energy – Generation Resources (Unless net metered and exempt under 30USA Section 248)	C	C	C	C	C	C	C	
Restaurant	P	P	P		C			
Rooming / Boarding House	C	C		C	C			
Schools	C	P	C	C	C	C	C	
Retail Store and / or Services	C	P	P	C	C			
Small Engine Repair Shop	C	P	P		C			
Solid Waste Drop Off		C	C					
Studio	P	P		C	C			
Telecommunications – Ham / Private Radio		C	C			C	C	Commercial Telecomm Facilities Exempt, BOVSA Sec 248
Theatre		P	P					

Transport Terminal (Bus / Limo / Trucks)	C	P	P	C	C			
Trucking – Sales, Rent, Leasing – Over 18,000 GVW		C	P		C			
Veterinary Hospitals		P	P		C			
Wood Manufacturing (Lumber, Pellet & Firewood Mills, Kilns, Planers)		C	P			C		
Wood Working Shop	C	P	P			C		

ARTICLE IV: CONDITIONAL USE ~~PERMITS REVIEW (CONDITIONAL USES)~~

Section 401: ~~Uses Permitted Subject to Conditions~~ Conditional Uses:

A. ~~A zoning permit shall be issued by the Zoning Administrative Officer for any use or structure that requires conditional use approval only after the Development Review Board grants such approval. The Board shall only approve, with or without reasonable conditions, proposals that conform to the applicable conditional use criteria and district standards contained within this bylaw, taking into consideration the appropriate conditions of Section IV.~~

1. In considering its action, and in accordance with 24 V.S.A. § 4414(3), the Board shall make findings that the proposed conditional use does not result in an undue adverse effect on:

a) The capacity of existing or planned community facilities;

~~ff)b)~~ The character of the area affected, as defined by the purposes of the Zoning _____ District impacted, and the specific policies and standards of the Town Plan.

~~gg)c)~~ Traffic on roads and highways in the vicinity;

~~hh)d)~~ Utilization of renewable energy resources.

B. ~~Except for one- and two- family structures, T~~he Development Review Board shall also consider ~~, except for one and two family structures,~~ the following:

1. *Adequacy of Traffic Access:* The proposed use must provide for maximum safety of pedestrian and vehicular circulation between the site and the street network including location, number and width of access points, curve radii at access points, acceleration or deceleration lanes on adjacent public streets, sight distance improvements, shared access with adjoining properties, and location of sidewalks and/or other walkways. Particular consideration shall be given to visibility at intersections, to traffic flow and control, to pedestrian safety and convenience, and to access in case of an emergency.

2. *Pedestrian Circulation:* The Development Review Board may require pedestrian walkways to facilitate pedestrian movements. In all districts, the Development Review Board may require provision for pedestrian trails and walkways along waterways or other natural features to connect with similar present or anticipated trails on adjacent properties.

3. *Access:* The Development Review Board may require service roads connecting to public roads, with provision for connection to similar service roads on adjacent property where it ~~feels-finds~~ that limiting the number of intersections to the public road is in the interest of the health and safety of the community.

4. All roads, regardless of whether they are to be provided or taken over by the Town, shall be constructed to meet the current Town of West Rutland specifications.

C. Adequacy of Parking and Loading Facilities:

Commented [SS67]: This entire article needs work. Very vague, unmeasurable standards. Needs to be reorganized to reduce repetition, ensure clarity, state goals for Board to say whether or not application proposal meets them in review. Need specific review criteria for board to apply, not considerations. Some parts seem too specific and state options for conditions, so I'd leave it as "reasonable, related" conditions for flexibility. Board then has discretion to create conditions.

Commented [KR68R67]: Each consideration must have measurable standards attached. For example, you say in "*adequacy of traffic access*" that a proposal must "provide for maximum safety of pedestrian and vehicular circulation between the site and the street network including . . . Sight distance." What is the distance that is acceptable or unacceptable for sight distance. If you don't list the standard here in the regulations, the regulations must refer to some standard by which the DRB can assess the application for compliance (same applies to ZA review), for example AOT driveway design guidelines could be referred to.

Commented [SS69]: Section IV does not exist, only Article IV, several references to it (deleted here) Also, DRB must apply conditional use criteria and district standards, not appropriate conditions. They create appropriate conditions.

Commented [KR70R69]: I agree with Susan's redraft

Commented [KR71]: Reference 24 v.s.a. 4414(3)

Commented [KR72]: If the DRB is not reviewing them, there is no reason to include here

Commented [KR73]: Might want to entitle this section something like "general standards" or "review criteria." You could put the title in bold followed by the existing language.

Commented [SS74]: Can't use feelings as standard; use a finding.

Commented [KR75]: Reference specific road ordinance if one exists?

Commented [SS76R75]: Something like "all access proposals must comply with _____ local ordinance standards and requirements"

Commented [SS77]: This and the following capital letters (C, D, F) should be #'s 5, 6, and 7. They're still part of the consideration criteria under B.

1. This will include adequacy of on-site circulation, parking, and loading facilities, with particular attention to safety including aisle widths to accommodate emergency vehicles, traffic movement patterns and location of parking areas to prevent conflicts with entering and exiting traffic onto a public street, location of loading docks and number, turn around area, size of parking spaces, and drainage.

Commented [SS78]: Reword and entitle "*site circulation*" in italics like the other sections. Something like "Onsite circulation, parking, and loading facilities must be adequate to serve the proposed use and provide safe pedestrian and vehicular travel" would be better. Also, what is the standard?

2. Particular consideration shall be given to the effect of noise, glare, or odors on adjoining properties. Refuse and service areas shall be included. Provisions for snow storage or removal shall also be reviewed.

Commented [SS79]: State an acceptable or unacceptable level of these performance standards. Consideration given on effect isn't a measurable standard. This isn't really adding anything. Maybe say "Proposed refuse, service, and any snow storage areas, as well as snow removal plans, must be included on site plan and in application information" or something to be specific about what they want. Don't just list things they should discuss, state what you want from an applicant.

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D. Adequacy of Landscaping and Screening:

1. The objective is to achieve maximum compatibility and protection to adjacent property. Particular consideration should be given to the preservation of existing vegetation, visibility of unsightly or incompatible areas from the road and adjoining properties, and the adequacy of landscaping materials to meet seasonal conditions, soil conditions, and light on the site.

Commented [SS80]: Standards

E. Landscaping – General:

1. In determining the amount of planting to be required, the Development Review Board shall take into account:
 - a) Existing trees, shrubs, evergreens and other vegetation to be preserved on the site.
 - b) Visibility of incompatible or unsightly areas from roads and/or adjoining properties.
 - c) The need to effectively screen all parking areas from roads and adjacent properties.
 - d) Proximity of lots used for residential purposes.

Commented [SS81]: This should be (D)(2). Part of same criterion as above.

2. Specific Landscaping Requirements:

- a) All parking lots shall be screened by a strip not less than 15-feet in width with suitable plants, screening or landforms.
- b) All plants, when initially installed, are to be of a size and shape approved by the Development Review Board. ~~If the Development Review Board determined that the landscaping plan is appropriate in size, scope, etc., but that it will take several years for the plants to accomplish the screening or buffering goals, the Development Review Board may require that fencing be installed during the interim.~~
- ~~e) If the Board of Adjustment determines that plants are not appropriate, it may approve suitable fence.~~
- c) The remainder of the required yard space shall be landscaped and maintained in good appearance.
- d) Where commercial uses are located adjacent to residential buildings, there shall, to the extent practicable, be plants or attractive solid fencing to screen outdoor lighting, as much as feasible from the view of the ground floor of the adjacent residential buildings.
- e) All landscaping shall be completed and maintained in accordance with the site plan as approved by the Development Review Board. Any dead or diseased planting shall be replaced as soon as seasonably feasible.

Commented [SS82]: This #1 could be merged with #1 above (The objective is...). Maybe add one "Preference for natural vegetation but the DRB may determine that artificial materials such as fencing may be acceptable."

Commented [KR83]: Definition of "parking lot" or more clarity here on what type/size of lots screening applies to.

Commented [SS84]: Unnecessary and doesn't add value. DRB may always add reasonable conditions, including phased landscaping and interim mitigation measures.

Commented [SS85]: See comment above.

Commented [KR86]: Very subjective.

Commented [SS87]: Feasible is typically a better standard.

F. Protection of renewable energy resources:

1. Particular consideration shall be given to the appropriate ~~sitting~~-siting of buildings in order to maximize access for solar gain to the property and adjacent properties.
2. In granting conditional use approval, the Board may attach such reasonable conditions in addition to those outlined, as it deems necessary.

Section 402: Applications for Conditional Use

- A. Waiver of Application Requirements: Any of the following information can be waived at the discretion of the Development Review Board (DRB). A request for a waiver shall be submitted to the Development Review Board in writing, and at least 21 day in advance of a DRB meeting date. The waiver application shall specify what the applicant wants waived and reasons for the request. A request for a waiver shall not be considered a formal zoning application for purposes of timing requirements relating to action on applications. The owner and/or applicant shall submit Three (3)- sets of a site plan and supporting data to the Development Review Board, if drawn on (maximum size) 11" X 17" paper and accompanied by written text. -If larger design prints are ~~required~~submitted/prepared, then Seven (7) sets of these larger prints are required.
- B. The applicant shall include a ~~preliminary draft~~ site plan providing sufficient information upon which the Development Review Board can make a decision. -The ~~development~~ Development Review Board may request additional information:
1. Name and address of the owner of record of this and adjoining lands; name and address of applicant - if different than owner; name and address of person or firm preparing the plan; description of the property ~~giving~~-including site location; scale of map, north point, and date.
 2. ~~Plan~~Survey of the property showing existing features, including contours, structures, large trees, streets, utility easements, rights-of-way, land use and deed restrictions, zoning classification, existing surface waters (brooks, ponds, etc.), if any, and the location of proposed structures with distance from lot lines indicated.
 3. Site plan showing locations of proposed structure(s), and land use areas; streets, access points, driveways, traffic circulation, parking and loading spaces and pedestrian walks; utilities both existing and proposed, including placement of poles; and including water wells and sewage treatment facilities; landscaping plans, including site grading, planting design, screening or fencing, detailed specifications of planting and landscaping materials to be used; existing and proposed above ground equipment such as propane tanks, transformers, etc.
 4. Construction sequence and anticipated time schedule for the completion of each phase for buildings, parking spaces and landscaped areas of the entire development.
 5. The location and size of proposed signs.
 6. Certification that the applicant has notified all adjoining property owners of the application.

Commented [SS88]: This may be overreach. See 24 VSA 4414(3)(A)(v) and 4414(6). I interpret this to mean zoning can encourage and incentivize using renewables. But I'm not sure there is authority for town to burden applicant with solar gain of adjoining property. #2 misplaced and applies to all, is implied. Better to put it at beginning of section.

Commented [KR89]: This appears to me to be the opposite of the intent behind conditional use which, with respect to renewable energy resources, which allows certain uses only so long as they don't have an undue adverse effect on utilization of renewable energy resources, not to maximize them 24 v.s.a. 4414(3)(A)(v). You could re word the clause to remove "maximize" and to indicate no undue adverse impact as 4414(3)(A) notes.

Commented [SS90]: Standards. I would think a waiver of application materials must be done during a warned hearing on the waiver and based on standards to be listed here - hearing requirement should be noted too. Question the necessity of this provision though. Just have different required materials for different types of applications and the DRB can always ask for more information if the initial submittal is insufficient for them to make a determination.

Commented [KR91]: Preliminary is a term of art in land use - refers to initial hearing phase ala subdivision - implies there will be additional hearings with a final site plan.

Commented [SS92]: Survey for conditional uses? Seems onerous. What is the rationale?

Commented [SS93R92]: I'd add what a site plan must show-known easements, ROW, etc. Private deed restrictions, for instance, are not a concern of the town because that's a private property matter. Doesn't factor into DRB decision.

Commented [KR94R92]: Survey implies boundary map created by surveyor rather than map created by applicant/engineer based on best info available. This is costly and time consuming and could be a hindrance to smaller projects. I would recommend revising to Plan as noted

Section 403: Bond

The applicant may be required by the DRB to provide a suitable performance bond or other form of security to secure compliance with any conditions.

Commented [SS95]: Any? Or reasonable conditions related to statute?

Section 404: Additional Criteria for Specific Conditional Uses

A. Auto Service Stations and/or Petroleum Products

Any motor vehicle service station or motor vehicle sales establishment providing sales, mechanical or metal repair and or combustible petroleum products to the general public shall, in addition to all other applicable standards, comply with the following:

Commented [SS96]: Also include below the Flood, Ridgeline, and Source Water Protection Overlay specific standards that are currently in the district description - move them to here.

Commented [SS97R96]: Be sure each criteria is precise and measurable.

1. The lot on which such activity is located or proposed shall not be located within 300 feet of any lot occupied by a school, hospital, library or religious institution.
2. Pumps, lubricating and other service facilities shall be located at least 30 feet from all property lines.
3. Lot frontage shall be at least 150 feet.
4. Lot depth shall be at least 200 feet
5. Lot size shall be at least 30,000 square feet.
6. All above ground fuel, oil, or other combustible liquid, or explosive, compressed or liquefied gas storage shall be at least 60 feet from the front lot line and 40 feet from all other lot lines.
7. All below ground fuel and oil storage shall be located at least 20 feet from all property lines.
8. All parts and dismantled vehicles are to be stored within the building.
9. No repair work is to be performed outside a building.
10. There shall be no more than two access driveways from public roadways. The maximum permitted width of any access drive shall be forty feet.

B. Camp Grounds:

Campfires will be maintained in fireproof receptacles, no RV hookups, 25 maximum camping and or RV sites, an engineered plan, minimizing ground water runoff will be submitted and reviewed by the Town's engineer at the applicant's cost.

C. Community Care Facility:

A residential care home or group home to be operated under state licensing or registration, serving not more than eight persons who have a handicap; or disability as defined in 9 V.S.A. section 4501-.

D. Convenience Store without gasoline: There will be no side of the street parking, single access on each street frontage, and 800-sqft maximum patron area, off street delivery only.

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D.E. Cottage Industry:

A Cottage Industry is permitted in accordance with the following:

1. The use does not change the character of the area and, the dwelling, accessory buildings, and the lot maintains a residential appearance at all times.
2. The cottage industry is clearly secondary to the use of the site for residential purposes.
3. The use is conducted within a portion of the dwelling or a building accessory thereto by the bona fide year-round resident of the dwelling.
4. No more than two (2) employees, in addition to the principle owner, shall be permitted.
5. The use shall not generate traffic, parking, noise, vibration, glare, fumes, odors or electrical interference beyond what normally occurs in the applicable zoning district.
6. Storage of equipment related to the cottage industry shall be within an enclosed structure or properly screened from adjacent residential uses.

E.F. Inns:

The maximum number of persons seated for meals shall be determined by the VT Department of Public Safety; and providing adequate off street parking is available. No more than 25 guest rooms allowed.

F.G. Fuel Distributor and/or Bulk Storage:

Commented [KR98]: Why nothing in this section? Remove or add considerations

G.H. Kennels (see- definition: Animal Housing Facility)

Minimum lot size for dogs and large animals is 4 acres. There will be no nighttime outdoor kenneling of dogs. Kennel Buildings will be insulated, sound proofed, and adequately heated or ventilated. Outdoor runs will be fenced to prevent animal escape.

H.I. Nursing Homes:

The Maximum number of patient beds is to be determined by the capacity of the facility, parking, and other applicable considerations.

I.J. Restaurant:

The Maximum number of total occupants is to be determined by the capacity of the facility, parking, and other applicable considerations.

J.K. Windmills (If not exempt from local zoning by 30 VSA Section 248):

1. Windmills will be painted in neutral non-glare colors.
2. Maximum design output for a facility within 1 lot will be 30 KW.
3. The maximum height for any freestanding windmill facility shall be 50 feet for half-acre lots and 80 feet for lot over 1 acre.

4. Windmills built on existing structures will be no more than 20 feet above the roof ridge line.
5. Wind energy systems shall not exceed sound levels of 60 d.b.a. as measured at the nearest neighboring property boundary. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.
6. A Certificate from a Vermont Structural Engineer verifying stability of the tower will be submitted with the permit application.

K.L. Multi-Family Dwellings (In the Village, Neighborhood, Residential & Rural Residential Zoning Districts)

1. Purpose: The intent of this section is to provide flexibility in dimensional requirements (length, width, height, setbacks & coverage) for the placement of primary multi-family structures and related secondary structures, in all zoning districts *while maintaining the character of the area impacted.*
2. For new ~~structure~~ construction or expansion of an existing structure's exterior dimensions that will be served by Public sewer and water systems, the number of Dwelling Units allowed on a parcel will be limited by standards set in Article V (Lot Size, Setbacks, Yards, Height Limitations) unless otherwise granted a waiver or a variance by the Development Review Board (DRB).
 - a) ~~That~~ The minimal dimensional requirements established in Article V of these regulations (excepting minimum Lot Size for new parcels created) may be waived by decision of the DRB providing:
 - i. The application provides explanation(s) for the need of a waiver(s); satisfactory to the DRB.
 - ii. That the waiver granted is for the minimal extent required by the project and shall not to be less than ten (10) feet from any property boundary, not to exceed ten (10) feet above maximum height, and not to exceed ten (10%) percent of maximum coverages.
 - iii. That adequate areas for resident vehicle parking (both on and off-site), walkways, snow piling, and trash storage are established.
3. For new ~~structure~~ construction or expansion of an existing structure's exterior dimensions on properties not served by both Public sewer and water systems, the minimum parcel area required shall satisfy all the waiver requirements identified in Section 404(K)(2) and provide adequate additional area for private on-site septic disposal and potable water supplies.
4. For changes in ~~Use-use~~ of an existing building that will not involve exterior expansion of the structure, any increase in the number of dwelling units shall be contingent on site plan approval that addresses adequate areas for resident vehicle parking (both on and off-site), walkways, snow piling and trash storage, in addition to required septic disposal and potable water capacity.
5. Vegetative screening is to be established around the side and rear perimeter of the property, consisting of hedge-type plantings with a minimum height of three (3) feet at planting and spaced to successfully mature into a healthy and effective privacy screen. The vegetation is to be set back from town infrastructures (road and sidewalk rights-of-way, underground utilities) and maintained so that the mature plants will not interfere with regular use or servicing of the public infrastructure.

Commented [SS99]: Is there an underlying reason for treating these differently in terms of dimensional standards than other residential structures?

Commented [KR100]: While you can still consider character of the area, Act 179 of 2020 added a provision to 24 v.s.a. 4414(E) that says you can't deny a multi-family housing project of 4 or fewer units due solely to character of the area. I do not believe that invalidates this clause per se, but you may want to evaluate whether this is the primary counterpoint in your purpose statement. You should also consider adding clarity regarding this facet (can't deny multi-family housing based solely on character of the area) to help your DRB draft decisions that can withstand judicial scrutiny.

Commented [KR101]: DRB can waive minimum lot size through a PUD. Might want to re-word this to make clear that minimum lot size can be waived in that circumstance

Commented [KR102]: This section would be better served as its own section - **Waivers** - unless you want waivers to only be applicable to Multi-family housing. I recommend combining all sections that discuss waivers into one overriding section on "waivers." It could be:

403 - Waivers

A. Waiver of Application Requirements (using the language from 402(A))

B. Dimensional waivers (using 404(L)(2)(a)).

Commented [KR103]: I would strike this provision. Preempted by DEC WW regulation. You can't regulate the structure based on the WW unless their construction requires an amended ww permit - DEC will determine if they have adequate space for a septic/water

Commented [KR104]: Preempted by DEC ww regulation. You could instead require WW/potable water supply permit

- a) If ~~or where~~ site conditions are inappropriate for vegetative screening, the DRB may approve a privacy fence, installed in accordance with Section 1023 of zoning regulations, or a combination of screening designs.
- b) All ~~p~~Privacy screening shall be ~~well~~ maintained and /or replaced as necessary within a reasonable time as necessary; ~~in perpetuity for the life of the multi family structure, and regardless of any change in ownership.~~

Commented [KR105]: Unenforceably vague

Commented [SS106]: Use a measurable standard such as "in the next growing season" or "within a year of when a plant dies" or something similar.

Commented [KR107]: Unnecessary - implied, use permits run with land/in perpetuity

Section 405: Planned Unit Development (PUD)

A: General Intent

Planned Unit Development is intended to permit developments of larger parcels of land —that will provide a desirable and stable environment in harmony with that of the surrounding area; to ~~permit~~ flexibility that will encourage a more creative approach in the development of land, will result in a more efficient, aesthetic and desirable use of open area, to ~~permit-allow~~ flexibility in design, placement of buildings, use of open spaces, circulation facilities, and off-street parking areas; and to utilize the best potential of sites characterized by special features of geography, topography, size or shape.

Commented [SS108]: Specify what review applies. Conditional use? Conditional use and subdivision? Need to know which criteria applies.

Commented [SS109R108]: The wording makes this seem like a waiver but it's a separate application for a PUD.

Commented [SS110]: I suggest using "allow" where that's intended, as "permit" refers to the noun in zoning. It can get confusing.

B: Standards and Conditions

So that new communities, innovations in design and layout, and more efficient use of land may be encouraged, a person may undertake land development in any district, upon approval of a Planned Unit Development as authorized by 24 V.S.A. Section 4417(12). To permit a Planned Unit Development, the Development Review Board (DRB) may modify these Zoning Regulations in accordance with that section subject to the following standards and conditions:

Commented [SS111]: Add a new B. Application for Review that includes application related info under this header.

Commented [SS112R111]: OR refer to a full section on applications for all types of permits, possibly adding a Section 1104 applications?

Commented [KR113]: Belongs in A: *General Intent*, this is not related to standards and conditions.

Commented [SS114]: This is a bit overbroad and can lead to confusion. PUDs modify the specific standards and dimensional standards that apply in the zoning district. They don't change, for instance, procedure or other portions of the Regs. I'd fine tune.

1. A site plan shall be submitted to the Development Review Board (DRB) showing the location, height, spacing, uses, and architectural inter-relationships of all buildings, open spaces and their landscaping; utility lines, streets, driveways, and off street parking and unloading spaces, unique man-made features, and physical conditions of the site, accompanied by a statement setting forth the nature of all proposed modifications, changes or supplements to existing zoning regulations, and such other information as the DRB may deem necessary.
2. A Planned Unit Development application shall also include both maps and a written statement and must show enough of the area surrounding the proposed PUD to demonstrate the relationship of the PUD to adjoining uses, both existing and proposed.
3. The DRB shall hold at least one public hearing, upon public notice, prior to approval.
4. Land Development may be commenced through a Planned Unit Development for those uses and under those requirements that are specified in Article III: Table of Uses as permitted in a PUD except Conservation II.
5. The minimum parcel area requirement for a PUD is to be determined by the proposed project's design, physical limitations of the property, and other applicable Conditional Use considerations.
6. The DRB may increase or decrease the setback and coverage requirements in any District if, in its judgment, the special circumstances of a proposed development would make such

Commented [SS115]: Recommend a separate section on applications for PUDs that list required contents, hearing process, etc. Either within PUD section (B:) or in separate Article detailing process for each type of application - e.g. create *Section 1104 Applications*

Commented [KR116]: Lot size or coverage? Confusing - align with other terms in document

Commented [KR117]: Standardless, set specific criteria that will allow specific minimum lot sizes adjustments or whatever the intent is. What is the give and take here?

requirement inappropriate. Side and rear setback requirements, as listed the Tables in Article V and as used in this Section, shall be interpreted as the side and rear setback requirement required for the PUD as a whole and not as the setback requirements for each particular structure placed in such PUD.

Commented [SS118]: Standardless. What is the range of increase and decrease? "Inappropriate" is vague.

Commented [KR119R118]: Special circumstances is vague - what circumstances warrant this increase/decrease

7. The DRB may allow some sections of a development to have a greater density of residential land use than usually allowed, to be offset by a lower density in other sections of the development.

8. As well as meeting all applicable Town standards roadways, parking and unloading facilities, the PUD shall be designed and constructed so as not to cause unreasonable highway congestion or unsafe traffic conditions. The parking requirements of Section 602 may include approved off-premises parking, and be reduced to 80% of spaces usually specified.

9. Water and utilities will conform to the Town of West Rutland water, sewer and onsite septic standards. Telephone, electric and cable shall be run underground wherever possible.

Commented [KR120]: DEC preclusion - consider revising to state that the project will require a state wastewater system and Potable Supply Permit. [Wastewater Systems and Potable Water Supplies | Department of Environmental Conservation \(vermont.gov\)](#)

10. Unique natural features of the site should be preserved, in their natural context, to the greatest extent possible.

Commented [SS121R120]: Yes, pre-emption here.

Commented [SS122]: In their natural "state"? Context is confusing.

11. Where a PUD is to be located in more than one zoning district, the lot sizes and the number of allowable dwelling units for the least restrictive district may be applied to the entire project, and the same design considerations as for multi-family housing may apply (Section 404K).

12. The DRB may issue Planned Unit Development approval for a proposed development for a specified period of time.

Commented [SS123]: No Authority. Permits can expire but approvals typically run with the land - vested rights

13. Mixed commercial and residential uses shall be so arranged as to insure-ensure visual and acoustical privacy to residents in the development.

14. If a PUD application results in lands available for park, recreation, open space or other municipal purposes, the DRB may establish such conditions on the ownership, use and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes.

Commented [SS124]: No Authority. DRB can't change ownership through zoning approval.

15. The DRB may attach such reasonable conditions and safeguards as may be necessary to implement the purposes of 24 V.S.A. Chapter 117 and these Regulations, in order to protect the public health, safety and welfare.

Commented [SS125]: Recommend striking this and stating at the beginning of the PUD section that conditional use (and maybe subdivision review) is required for all PUDs. Some towns apply CU review and classify all PUDs as major subdivisions so that review is simultaneous.

16. The DRB may require from the owner, for the benefit of the Town, a performance bond with a good and sufficient surety, in an amount sufficient to cover the full costs of public or private roadways and utility lines, in situations where buildings are to be constructed prior to the completion of such roadways or utility lines.

Commented [KR126R125]: Agree that this is an important facet

Commented [SS127]: Does this match the statutory language on bonds?

17. The DRB shall also have the same powers in any Planned Unit Development application with respect to adequacy of traffic access, circulation and parking, landscaping and

screening, and such other items as it has in a Site Plan Review procedure, to the extent not already provided for in this Section.

18. The issuance of PUD approval shall not relieve the applicant, or ~~his~~ their successors or assigns, from the obligation to obtain a zoning permit under Section 1202 of these Regulations, and that permit shall only be issued if the proposed land development complies with all applicable provisions and conditions of the PUD approval and the applicable requirements of these Zoning Regulations not modified by the PUD approval. No land development approved in the PUD application shall be commenced until such zoning permit is obtained.
19. The PUD will be consistent with the Town Plan.
20. If the PUD contains units to be owned as condominiums, the applicant shall submit a copy of the proposed Condominium Declaration and By-Laws for the project.
21. The applicant shall submit a copy of any restrictive covenants proposed to run with ownership of the project or portions thereof.

C. Failure to Begin a PUD:

If no construction has begun ~~or no use established~~ in the PUD within 12 months from the issuance of the zoning permit, the zoning permit for the PUD shall ~~become null and void~~ expire. In its discretion, and for good cause, the DRB may, upon request of the applicant, extend an additional 6-month period for the beginning of construction or establishment of a use. If the PUD permit becomes null and void under the provisions of this section, the Zoning Regulations applicable before the PUD permit was issued shall be revived and in effect.

D. Failure to Complete a PUD:

If any PUD or portion thereof, is not ~~completed~~, the PUD permit for the project shall ~~become null and void~~ expire. In its discretion, and for good cause, the DRB may, upon request of the applicant, extend additional years in which the PUD shall be completed. If the zoning permit becomes null and void under the provisions of this section, the Zoning Regulations applicable before the zoning permit was issued shall be revived and in effect.

E. Amendments and Changes:

Any and all amendments or changes to the PUD, ~~as approved by the DRB~~, shall require approval by the DRB and the issuance ~~with the provisions set forth in this section~~.

Commented [SS128]: 1104? Check citation.

Commented [SS129]: I recommend removing. Generally outside jurisdiction of local land use program; these are private legal documents for private property disputes settled through private actions. Not within scope of review.

Commented [SS130]: Recommend merging C and D; one section on permit expiration outside the PUD section may be clearer if it'll apply to all CU permits and underlying approvals if construction not substantially begun or complete, etc.

Commented [KR131R130]: Additionally, most towns only use "substantially complete."

Commented [KR132]: This adds unnecessary confusion to sentence and my not add anything since uses not very applicable in PUD. If you are concerned "construction" does not cover it all you could revise to "development" which would likely cover uses.

Commented [KR133]: I recommend striking this clause. Although, to my knowledge, this would be a case of first impression (interpretation not yet decided by a court), I would opine that this is not authorized - e.g. could not revive old regulations for this applicant. The VT supreme court held that a multi phase subdivision review could rely on the regulations from initial application even though an amendment occurred before final because they deemed each phase part of the same proceeding. Here, once the PUD becomes null & void, if the applicant were to reapply it would be a wholly new application and new proceeding - not part of same proceeding.

Moreover, this seems counter to the general intent of expiration dates on permits - to ensure land development is based on the most current land use regulations.

Commented [KR134]: Should this be "substantially completed?" align with definitions

Commented [SS135]: Standardless.

Commented [KR136]: See note above in 405(c)

Commented [KR137]: Unclear what this means. Is something like this the intent: "... of a new decision in conformance with the provisions ... "?

Commented [SS138R137]: Yes, it's unclear. I'd suggest keeping it simple. "Any change or amendment to the PUD shall require prior approval in accordance with this section" or pull that out in a general Article that applies to everything.

ARTICLE V: LOT SIZE, SETBACKS, YARDS, & HEIGHT LIMITATIONS

The following requirements apply to all uses shown as Permitted (P) in Article III, Tables of Uses.⁵ Conditional Uses shall meet the requirements of Article IV unless Article V imposes requirements that are more restrictive.

District	MINIMUM LOT SIZE Measured in Square Feet	Setbacks Measured in Feet			Min Lot Depth	MINIMUM LOT FRONTAGE	Max Building Height	Max Total Coverage	Max Bldg. Coverage
		Front	Side	Rear					
VILLAGE*	5,500 ft ²	25'	15'	15'	120'	50'	40'	80%	60% *includes former village commercial
INDUST.	20,000 ft ² 30,000 ft ² w/o town sewer (Requires sewer only)	25'	none	none	100'	100'	40'	80%	80%
COMM	6,000 ft w/ Muni S&W 30,000 ft ² w/o town sewer (Requires sewer only)	25'	10'	10'	110'	60'	40'	80%	75%
RES I	20,000 ft ² 30,000 ft ² w/o town s/w	25'	15'	15'	120'	60'	35'	60%	40%
RES II	30,000 ft ² 50,000 ft ² w/o town s/w	40'	15'	15'	150'	100'	35'	60%	40%
RES II A	2 Acres	40'	25'	25'	140'	90'	35'	15%	
CON I	2 Acres	40'	25'	25'	140'	100'	35'	15%	
CON II	10 Acres 2 Acres Boardman Hill Area	40'	25'	25'	140'	250'	35'	30%	30%

(1) See definition in Article X

Commented [SS139]: Instead of having separate charts and sections for each standard, I suggest having separate sections or charts for each zoning district and then listing description, purpose, permitted/conditional uses, dimensional standards there. Puts all district specific information together in one place instead of scattered throughout the regs. Too many places to look, things could be missed.

Commented [KR140R139]: I agree wholeheartedly

ARTICLE VI: PARKING AND LOADING

Section 601: Off-Street Parking Space General Requirements:

1. The dimension of a parking space shall be 9' X 20'.
2. Parking spaces will not be permitted directly in front of entrances or exits to buildings. These areas shall be designated as loading areas (passenger or other).
3. Driveways serving multi-family residential uses and all non-residential uses shall be so arranged that vehicles are not required to back onto a public road on entering or leaving.
4. In residential districts, required parking may not be located in the front setback, unless on a driveway on a permitted curb cut. Pavement shall not replace lawns or planted areas in the front setback, exclusive of driveways.
5. Lights used to illuminate parking areas and drives shall be so arranged and designed as to deflect light downward and away from adjacent residential areas and public highways. Shielded fixtures shall be used.
6. All open off-street parking areas containing more than four (4) parking spaces and all off-street loading areas shall be screened on each side adjoining or fronting on any property in a residential district, by a wall, fence, or densely planted hedge not less than three (3) feet nor more than five (5) feet in height.
7. Parking space shall be located on the same lot as the principle use except as otherwise approved by Zoning Administrator or DRB.
8. Parking spaces for any number of separate uses may be combined in one parking lot.
9. Parking space, access drives, entrances, and exits as required by this section for business buildings, for multi-family dwellings and for dwelling groups shall be adequately paved with macadam, bituminous or concrete and designed so as not to drain onto a public highway or adjacent properties.
10. All parking and loading areas shall be paved with structural aggregate asphalt, or concrete surfacing except that a porous surface may be approved by the Zoning Administrator or DRB where it is deemed desirable to control water runoff problems. Permanent bumper guards or wheel bumpers shall be required in those locations of the parking and loading area where a matter of safety is involved. Provision shall be made to prevent vehicles from overhanging any sidewalk area, as well as snow piling and/or removal.
11. Except for driveways and other entrances, parking and loading areas shall properly protect adjacent areas against headlight glare by means of a fence, wall, or densely planted hedge having a maintained height of not less than three (3) feet; nor more than five (5) feet. On the side of the lot adjoining a residential zone the area between the property line of the lot and such fence,

Commented [SS141]: Using what standard? Need to refer to waiver provision, if created, or add criteria. I'd also delete "by Zoning Administrator or DRB" because it implies you can ask either one. The underlying proposal will trigger which review it needs - admin or DRB.

Commented [SS142]: Add reference to total cumulative spaces needed for mixed use is combined. "...so long as the total number of spaces for each use is available" or something.

Commented [KR143]: This language may be overbroad - it implies no water can enter highway from parking, even if some was already coming from that location. I would revise to the statutory language from 19 v.sa. 1111(b), which says "so as to [not] divert the flow of water onto the highway right-of-way"

Commented [KR144]: Standard?

Commented [SS145]: Standard?

Commented [SS146]: Clarify goal desired. "Parking blocks must be installed to avoid vehicles extending into sidewalk areas." "Proposal must specify snow storage and/or removal plans." Or something similar.

Commented [SS147]: How long do they have to reach this height from planting? A year? 3 years? Suggest specifying.

wall or hedge shall be planted with lawn, shrubs, or flowers and continuously maintained in good condition.

12. ~~Lot line setbacks for p~~Parking areas in all commercial districts shall be set back 15' from the front lot line and 5' from each side lot lines.

Commented [SS148]: Suggest deleting as vague/standardless. Include timeframe for replanting dead or diseased trees.

Section 602: Parking Space Requirements

Residential	Two (2) spaces per dwelling unit
Home Occupation	Two (2) spaces in addition to the requirements for the dwelling if business has non-family employees. If no employees: One (1) space in addition to dwelling requirements.
Resident professional person	2 plus residential requirement
Setbacks Parking Requirements - all residential uses	Front: 15 feet / Side and Rear: 10 feet
Setbacks Parking Requirements - all other uses except for multi-family and PUDs	Front: 15 feet / Side and Rear: 5 feet or setback buffer, whichever is greater
Auto Service Station: including automotive repair shops, garages and gas stations with repair facilities	5 spaces for first bay and 2 spaces for each additional bay or vehicle work station
Auto Service Stations without repair facilities	1 space per 4 pump stations
Auto dealers (In addition to space for display vehicles)	1 space per employee plus one space per vehicle work station plus 5 spaces for customer parking
Hotel, motel, lodge, bed and breakfast facility, including home occupation lodging facility	1 space per employee plus 1 space per guest room
Light Industry, manufacturing, wholesale, warehouse storage, freight, trucking or laboratory uses	1 space per 1.5 employees during the largest daily work shift
Nightclubs, bars and lounges where the serving of alcoholic beverages is the primary area activity, with or without entertainment	1 space per 30 square feet of patron floor area
Office, including business and professional offices, banks and other financial institutions Medical offices and clinics	1 space per 250 square feet of gross floor area
Meeting rooms, convention facilities or other places of assembly without fixed seating	1 space per 50 square feet of patron floor area
Multi Family, PUDs or Other Special Uses	In order to maintain the purpose and intent of these regulations, the Development Review Board shall determine the number of parking spaces to be provided for uses not included in this section to the end that there shall be adequate off-street parking (including public parking) for such uses.

Commented [SS149]: Standardless and vague. Set distances and create a waiver with clear criteria for obtaining one.

Commented [KR150R149]: Pick a number

Off Street Parking Spaces

MARBLE STREET NOTE: For commercial uses along Marble Street each 20' of unrestricted road frontage shall count as one space towards required off street parking spaces. Also: required parking for commercial uses along Marble St. may be off-site and off-street parking areas with the Development Review Board's approval.

Section 603: Commercial Loading Areas:

1. One (1) –off-street loading space not smaller than fifteen (15) feet wide, twenty-five (25) feet long and fifteen (15) feet high (if covered) shall be provided for every non-residential building.
2. One (1) additional loading space shall be provided for each twenty thousand (20,000) square feet of floor area, or part thereof, for any floor area exceeding twenty (20,000) thousand square feet.
3. Loading surfaces shall be paved.
4. Loading facilities shall be located in the rear or side yards, unless otherwise permitted, and not encroach on required buffer areas.
5. Curbside parking, adjacent to the property, will be counted towards the parking requirements in the Village Commercial District.

Commented [SS151]: Recommend including this in a new, separate generally applicable waiver section near 1104 on general applications.

Commented [SS152]: By whom? According to what criteria?

ARTICLE VII: NONCONFORMING USES AND NOCONFORMING STRUCTURES

Commented [SS153]: This article seems unnecessarily long and confusing. More concise and clearer.

Section 701: Construction Approved Prior to Adoption or Amendment of Regulations

Nothing contained in these Regulations shall require any change in a nonconforming structure or a nonconforming use where such use or structure conformed to all applicable laws, ordinances, and regulations prior to the enactment of these regulations.

Section 702: Scope

A use of land or a use of a structure which is not permitted or conditionally permitted for the district in which it is located, but which was allowed by all applicable laws, ordinances, and regulations in force prior to the enactment of these regulations, is hereby declared to be a nonconforming use, and not in violation of these Regulations at their date of enactment. However, a nonconforming use shall be subject to the provisions of Sections 703-705 below.

Commented [SS154]: Merge scope and change of use sections?

Commented [SS155]: Suggest using "came into legal existence" language.

Section 703: Change of Nonconforming Use

A nonconforming use may be changed to another nonconforming use only with the approval of the Development Review Board and then only to a use, which in the judgment of the Board is of a lesser, or ~~no more equal~~, nonconforming nature

Commented [KR156]: Standardless discretion

and provided~~ed~~ that no structural changes are made in the building. Whenever a nonconforming use has been changed to a conforming use, it shall not be changed back to a nonconforming use.

Section 704: Extension of a Nonconforming Use.

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

Commented [SS157]: Not sure intent is clear. Maybe add to "scope" section.

Commented [KR158R157]: Agreed on intent. I'm not sure the policy goal here so I would recommend removing the language, but it likely fits best as part of Section 705 as shown if its to be kept .

Section 705: Enlargement of a Nonconforming Use.

~~A nonconforming use may be extended throughout the building, provided no structural alterations or changes are made therein, except those required by law or ordinance or as may be required for safety or necessary to secure or insure the continued advantageous use of the building during its lifetime.~~ A nonconforming use may be enlarged on the same lot provided that:

1. All provisions of these Regulations, except type of use, are complied with;
2. The Development Review Board determines that the character of the neighborhood will not be changed substantially by this enlargement;
3. Only one such extension is made, and
4. The total enlargement does not exceed fifty (50%) percent of the area of the nonconforming use in existence at the time of the adoption of these Regulation.

Commented [SS159]: Suggest deleting. This doesn't make sense for use (versus structure).

Commented [KR160R159]: E.g. most towns don't allow enlargement of nonconforming uses

Section 706: Restoration of a Nonconforming Use

Any nonconforming use which has been destroyed or damaged by fire, explosion, act of God, or by vandalism or public enemy, may be restored within a two year period, to the same nonconforming use as existed before such damage.

Section 707: Discontinuance of Nonconforming Use

Any nonconforming use of land or building, which has ceased by discontinuance, or abandonment for a period of one year, shall thereafter conform to the provisions of these Regulations. Intent to resume a nonconforming use shall not confer the right to do so unless actual resumption occurs within the specified time period.

Commented [SS161]: Recommend merging these sections into one Abandonment/Discontinue/Expiration section. Detail when a use or structure is abandoned or discontinued, and timeframe for when that will mean it's expired forever.

Section 708: Non-Conforming Structure

A structure or part thereof not in conformance with the zoning where such structure conformed to all applicable laws, ordinances and regulations prior to the enactment of such zoning regulations except regulations covering building bulk, dimensions, height, area, yards, density or off-street parking or loading requirements.

Section 709: Maintenance of a Non-Conforming Structure.

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

Commented [SS162]: Consider merging into new 701 or 702 on general use/structure standards and definitions.

Section 710: Expansion of a Non-Conforming Structure.

The Development Review Board may approve the relocation or replacement of a nonconforming structure provided that the structure does not increase its nonconformance with any dimensional requirement.

Section 711: Restoration of a Non-Conforming Structure.

Any nonconforming structure that has been destroyed or damaged by fire, explosion, act of God, or by vandalism or public enemy, may be restored within a two-year period, to the same non-complying structure as existed before such damage.

Section 712: Development on a Nonconforming Lot or Parcel

An existing nonconforming lot or parcel may be normally developed provided that all provisions of these regulations are met, except those that create the nonconformity, are complied with.

Commented [SS163]: This is a given, suggest deleting.

Section 713: Alteration of a Nonconforming Lot or Parcel

The boundaries of a nonconforming lot or parcel may be altered only in a manner that decreases, or does not increase, its degree of non-conformity.

ARTICLE VIII: SIGNS

Section 801: General Sign Requirements

1. Unless otherwise specifically exempted in this Article, a permit is required for approval of all signs over two (2) sq. ft. in area.
2. No signage shall be installed in a location that obstructs driver visibility, interferes with municipal maintenance of its infrastructure, or creates a hazard to the Public.
3. Signs must be placed within the premises of the property owner benefited by the sign, and be ~~back-off~~set back from lot lines a minimum of three (3) feet.
4. No signs may be attached or painted onto natural features (examples: rock or cliff faces, trees).
5. An existing sign that does not conform to these regulations shall only be replaced with a conforming sign at the time the existing sign is replaced or the property transferred or rented to another type of business (see Section 810).

6. Signage left in place for longer than 90 days shall be deemed permanent, and require a permit ~~or be considered in violation of this regulation.~~

Section 802: Residential Districts

The following signs are ~~permitted~~ allowed in the Residential Zoning districts; all other signs are expressly prohibited. A zoning permit shall be required prior to sign installation unless exempt, as indicated on the chart below.

Commented [SS164]: The chart is helpful to show what's allowed but I'd have a narrative stating this requirement.

	MAXIMUM SIZE	MAXIMUM NUMBER	PERMIT REQUIRED
Signs giving the name & E 9-1-1 of the property and/or occupant	2 sq. ft.	1 per lot	No
Signs pertaining to a profession or Home Occupant permitted as an accessory use on the lot	6 sq. ft.	1 per/lot	Yes
Signs pertaining to a permitted business, or the sale, lease or rental of property.	6 sq. ft.	1 per each street frontage	No
Signs offering real estate for sale within approved developments or subdivisions on the premises	12 sq. ft.	1 per each street on a subdivision or development frontage	Yes
Directional signs as may be required by the Development Review Board under site plan review		No limit	No
Temporary contractor's signs; during course of residential construction/ repair	10 sq. ft.	1 per each street	No
A.D.A. access/ parking signs	6 sq. ft.	No limit	No
Temporary identifying sign for short term project or event on a nonresidential property	20 sq. ft.	1 per each	No
Temporary civic, election, and nonprofit organization signs on the premises (30 day limit)	no limit	no limit	No
Temporary holiday decorations	no limit	no limit	No

Section 803: Village, Commercial, and Industrial Districts.

Unless identified as exempt in this Section, a permit is required for any sign advertising the use of the land and building for the sale of goods or services on the same premises, or the name or location of the proprietor. Any sign that is

permitted in Residential Districts, per requirements of Section 802, may be installed in these other districts.

a. The Total Area of all signs on the lot, excluding window and door signs, shall not exceed 2-sq. ft. for each linear foot of building frontage facing a street. Corner locations may provide additional use linear feet of building frontage on both street ~~set to the calculate permitted~~ signage area allowed ONLY if signage is installed on each side of the building ~~used in the maximum coverage calculation~~.

Formatted: Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0" + Indent at: 0.25"

a-b. Freestanding Signs:

1. One free standing sign, not ~~to~~ exceeding 25 sq. ft. in area, shall be permitted for each business on the lot, provided the total area of such signage is included within the above total (Section 803(a) of these regulations) and provided that no portion of the building is closer than 35 feet from the street curb line.

~~1-2. When no portion of the building is closer than 65 feet from the street curb line, such freestanding sign shall not exceed 40 sq. ft. in area per business, providing the maximum signage area conforms with 803~~

~~2. When no portion of the building is closer than 65 feet from the street curb line, such freestanding sign shall not exceed 40 sq. ft. in area per business, providing the maximum total signage area conforms to 803.~~

3. In the event that a building has frontage on more than one street, the distance from the street curb line shall apply only to the side where a freestanding sign is proposed to be located.

4. A multi-sign array freestanding sign advertising multiple business on one support structure (i.e. sign plaza) is permitted provided the sign otherwise conforms to signage requirements in Section 803(a) and 803(b)(1) & (2). ~~total area conforms with other sections of Article VIII.~~

Commented [KR165]: Clarity issues in Section 803, I did a fairly thorough reorganization, re-formatting, and re-writing throughout 803, but particularly here in "freestanding signs." Review 803 thoroughly to ensure it captures your intent before accepting.

Commented [KR166]: Why italicize

Commented [KR167]: consistency

b-c. Flush or Projecting Wall Mounted Signs: These are located on the exterior wall of the building.

Commented [KR168]: Unclear why this is here? Could be intended to be "shall be" instead of "these are" if they deleted the wrong words. Even then though it makes no sense as it is just a statement of the obvious.

e-d. Rear or ~~Secondary Entrance~~ Secondary Entrance Signs facing parking areas shall be permitted subject to total maximum area requirements (Section 803(a)) permitted and the following:

1. ~~They Exterior wall mounted sign(s) that~~ do not exceed 1 sq. ft. for each linear foot of building frontage on a public or a private parking area to which the owner has right of access.

2. ~~They are located on the exterior wall of the building except that One~~ freestanding sign that does not exceed 6-sq. ft. in area is permitted and is back of lot line ~~but not exceeding 6 sq. ft. in area.~~

Commented [KR169]: Clarify? "back" is a not a very clear verb to use hear as it could vary depending on orientation and it is unclear which line your are referring to. Are you intending to say that so long as it is not in ROW? unclear

3. Signs ~~that do not exceed 15 sq. ft. in area giving~~ providing the name and insignia of one or more occupants of a permitted ~~business~~ Office shall ~~have a combined maximum area of 15 square feet and~~ may be installed at each public entrance to the building.

~~d.e.~~ *In the absence of all other signs as permitted under Section 703, paragraphs a. through c. above, one freestanding sign facing each street to which the building has access may be permitted. The total area of such sign(s) shall not exceed presently allowed maximums in Section 803(a). The overall height of such sign(s) shall not be more than 15 feet above the surface of the ground to which the sign is affixed.*

Commented [KR170]: You should note if it is a freestanding or wall mounted sign at the entrance? If freestanding how close to entrance?

Commented [KR171]: Not sure what this means - clarity, rewrite

Commented [KR172]: is this a baseline option for everyone or only if you can't get a sign permit through the provisions above. Confusing provision

Commented [KR173]: Clarity re-writes in this section

Section 804. Window and door signs

~~These Window and door signs~~ do not require a permit, and are allowed in addition to the total signage area limitation specified in Section ~~8703(a)~~, subject to the following restrictions:

1. The ~~total area of a maximum additional window~~ sign ~~area~~ shall not to exceed 30% ~~of the surface area~~ of each window (glass) ~~surface area~~ to which applied. ~~Window~~ Such signs shall be confined to lettering only.
- ~~1-2. Door s~~ Signs ~~on doors or emergency egress windows~~ shall not exceed one (1) square foot in area, unless the sign is identifying an Exit or Entry ~~or an emergency egress window~~.

Commented [SS174]: Impermissible content-based regulation because you must read the sign to know if it can exceed max.

Commented [KR175R174]: Regardless, its unnecessary because emergency exit signs should be inward facing and thus not applicable here - delete

Commented [KR176]: Impermissible content-based regulation because you must read the sign to know if it can exceed max. Regardless, its unnecessary because emergency exit signs should be inward facing and thus not applicable here - delete

Section 805: Measurement of Sign Area

The area of a sign shall be considered to include all lettering, wording and accompanying designs or symbols together with any background different from the building whether painted or applied when it is designed as an integral part of and obviously related to the sign, and when the sign consists of individual letters or symbols attached to, or painted on, a building wall or window, the area shall be considered to be that of the smallest rectangle which encompasses all of the letters or symbols.

Commented [SS177]: Vague.

In the case of a free-standing sign, or a sign that can be seen from both sides, the area shall be determined by multiplying the outside dimensions of the sign not including the vertical, horizontal or diagonal supports which affix the sign to the ground, unless such supports are evidently designed to be part of the sign.

Section 806: Location of Sign

No sign shall be located on the roof of any building or on any exterior wall so as to project above the top of the exterior wall at the location of the sign. No sign shall face any lot line or any immediately adjoining lot in a residential zone within a forty- (40) foot distance.

Commented [KR178]: The R.O.W. is a lot line, might want to clarify here that facing the ROW is not included - e.g. "shall not face any rear or side lot line"

All signs on the property shall be so located that they will not interfere with the vision of a driver entering or leaving the property or interfere with visibility at an intersection or traffic light.

Wall and window signs shall be affixed only to that point of a building or structure wall that encloses the use to which the sign pertains.

Section 807: Height Restrictions

Freestanding signs, including posts, shall not exceed a height of fifteen (15) feet overall above the surface of the ground where located. There shall be a clear space underneath a freestanding sign, at least seven (7) feet four (4) inches (measured above the centerline of the intersecting street to the bottom of the sign) when located within the required front or street-side yard so that the sign will not ~~interfere with the vision of a driver approaching a street intersection~~ obstruct drivers' visibility.

Commented [KR179]: Consider embedding this in 803(b) Freestanding signs, or expand this provision to include other sign types

Commented [SS180]: Suggest this broader language.

Section 808: Illuminated Signs:

1. A sign may be illuminated if lighting is confined to, or directed to the surface of the sign.
2. The sign shall be so designed and shielded that the illumination does not distribute light or glare onto an adjacent property or the street(s).
3. No flashing, rotating, scrolling or intermittent message signs ~~or illumination~~ shall be permitted. An illuminated or non-illuminated message sign board will not be considered to have intermittent messages or displays if changed a maximum of once a calendar day (1 time every 24 hours).

Commented [SS181]: Recommend clarifying this term. Is it internal illumination? Or is it referring to exterior lighting? Gets confusing.

Formatted: Don't add space between paragraphs of the same style

Commented [KR182]: You said above in 808(1) that illumination is allowed

Commented [SS183R182]: Internal illumination?

Section 809: Maintenance & Removal of Signs:

1. Signs are to be kept in good repair or removed. No permit is required to maintain an existing permitted or exempt sign; ~~provided~~ there is no change to the shape, size, placement, or ~~illumination lighting~~ of the existing sign.
2. It shall be the responsibility of the property owner to remove or cause to be removed all business signs within three (3) months from the time the business closes or tenant(s) are vacated. The Property Owner of record shall be held responsible for removal of signs abandoned by a vacated tenant.

Commented [KR184]: Likely void for vagueness. "good repair" is subjective

Commented [SS185R184]: Suggest using "Signs shall be maintained."

Section 810: Replacement, Alteration or Relocation

No sign shall be replaced, altered or relocated ~~except in without~~ conform~~ance~~ing with ~~to~~ the existing requirements of this Article (Article VIII). Prior to the time of such replacement, alteration or relocation, or change of ownership or ~~business use~~, a new local permit is required.

Section 811: Portable and Temporary Signs

1. Portable, fabric, and wind signs (i.e. air balloons) may be erected on the premises of an establishment having a grand opening or special event without a Town permit provided that such signs do not interfere with ~~highway~~

Commented [SS186]: Impermissible content-based regulation; you have to read it to know if it is exempt. Suggest blanket and general exemption for temporary signs of X size for Y time period. Focus on the durational limits, not content.

visibility or traffic safety and are displayed for a period not to exceed Thirty (30) calendar days within any Ninety (90) day period.

2. Fabric or flexible material Banner(s) displayed over Town or state highways shall have a minimum clearance of 16.5 feet above the travel lane surface; securely attached by break-away fasteners, and removed within Twenty-one (21) days of installation. (10_V_S_A_ Section 494(18)(B))
3. Sandwich Signs: These "A-frame" type ~~of~~ signs are limited to ten (10) sq. ft. in area per panel, not to exceed a display height of four (4) vertical feet.
 - a) One (1) sandwich sign *advertising a business* is allowed providing the sign is located on the business's property, and displayed only during open hours of the business.
 - b) Two (2) sandwich signs *advertising a specific event* may be displayed without a Town permit and off premises (only with the permission of the property owners). These event signs may be displayed for up to twenty one (21) days prior to an event, and removed within seven (7) days after the event.
 - c) All Property Owners that allow sandwich signs on their premises will be responsible for compliance with zoning regulations and be subject to any violation enforcement.

Commented [KR187]: With or without a permit - e.g. exempt of permitted?

Commented [SS188]: Differentiating based on content; likely unconstitutional. Keep it general and consistent for all temporary signs, regardless of purpose. Focus on durational limits, not contents.

Commented [KR189]: Formatting: I recommend adding the uses that require site plan review to the Table of Uses and to the respective district descriptions. Add an "S" for site plan as noted in the comments for those sections. The table would be most useful if it included a "C" for CU, a "P" for permitted, an "S" for site plan, and an "E" for exempt. Then note here in the Scope that the uses subject to site plan review are listed in the table and a recite or restate the statutory language: "In reviewing site plans, the appropriate municipal panel may impose, in accordance with the bylaws, appropriate conditions and safeguards with respect to: (1) the adequacy of parking, traffic access, and circulation for pedestrians and vehicles; (2) landscaping and screening; (3) the protection of the utilization of renewable energy resources; (4) exterior lighting; (5) the size, location, and design of signs" from [24 v.s.a. 4416\(a\)](#).

Commented [KR190]: Standards? Site plan reviews can only be approved by the ZA if "thresholds and conditions under which the administrative officer classifies an application as eligible for administrative review" are "clearly specified]." See [24 v.s.a. 4464\(c\)](#). In other words, there needs to be clear parameters around what can be approved administratively vs. what must be referred. Add standards or remove mention of ZA

Commented [KR191]: No authority. See [24 v.s.a. 4416\(a\)](#):

"Site plan review

(a) As prerequisite to the approval of any use *other than one- and two-family dwellings*, the approval of site plans by the appropriate municipal panel may be required." (emphasis added)

Based on that language, you can't require site plan review for one and two family dwellings (including ADUs)

Commented [SS192]: Formatting - general application section. See my comments on conditional use review section which would apply here and to the next section on considerations as well - e.g. a specific general application section with required contents for each application type listed and with a specific referrals to that section here would be clearer. And, use specific review criteria/standards to avoid vagueness.

ARTICLE IX: SITE PLAN APPROVAL

Section 901: Scope

The Development Review Board (DRB) grants site plan approval **except** in the following cases, which may be approved by the Zoning Administrative Officer (ZA), or referred by the ZA to the Development Review Board:

1. One- and two-family dwellings and accessory uses and buildings;
2. Any use or structure requiring a conditional use permit; and, signs.
3. A project that requires excavation or fill of over 30 cu. yd. of earthen materials. (See Section 1016)

Section 902: Submission of Site Plan and Supporting Data

The applicant shall include at least Two (2) sets of the preliminary site plan(s), providing sufficient information upon which the Development Review Board can make a decision. If plans are on paper larger than 11" X 17", Five (5) sets of the site plan and supporting data shall be submitted to the Development Review Board. Each plan set shall include the information presented in drawn form and accompanied by written text:

1. Name and address of the owner of record of this and adjoining lands; name and address of applicant - if different than owner; name and address of person or firm preparing the plan; description of the property giving location; scale of map, north point, and date.
2. A survey of the property showing existing features, including contours, structures, large trees, streets, utility easements, rights-of-way, land use and deed restrictions, zoning classification, existing surface waters (brooks, ponds, etc.), if any, and the location of proposed structures with distance from lot lines indicated.
3. A site plan showing proposed structure(s), locations and zoning district; streets, access points, driveways, traffic circulation, parking and loading spaces and pedestrian walks; utilities both existing and proposed, including placement of poles; and including water wells and sewage treatment facilities; landscaping plans, including site grading, planting design, screening or fencing, detailed specifications of planting and landscaping materials to be used; existing and proposed above ground equipment such as propane tanks, transformers, etc.
4. Construction sequence and anticipated time schedule for the completion of each phase for buildings, parking spaces and landscaped areas of the entire development.
5. The location and size of proposed signs can be waived at the discretion of the Development Review Board. ~~A request for a waiver shall be submitted to the Development Review Board and~~ shall specify which portions are requested for waiver. The Development Review Board may request additional information. A request for a waiver shall not be considered as submission of a site plan in relation to Section 902.

Commented [KR193]: Should be added to standalone waiver section

Commented [SS194R193]: Must include specific waiver criteria to avoid unfettered discretion.

Section 903: Site Plan Review Considerations:

The Development Review Board shall consider and may impose appropriate conditions and safeguards only with respect to the adequacy of traffic access, circulation and parking, landscaping and screening, and to protect the use of renewable energy resources. The Commission shall review the site plan map and supporting data taking into consideration the following:

- a. **Adequacy of traffic access:** The proposed use must provide for maximum safety of pedestrian and vehicular circulation between the site and the street network including location, number and width of access points, curve radii at access points, acceleration or deceleration lanes on adjacent public streets, sight distance improvements, shared access with adjoining properties, and location of sidewalks and/or other walkways. Particular consideration shall be given to visibility at intersections, to traffic flow and control, to pedestrian safety and convenience, and to access in case of an emergency.
- b. **Pedestrian Circulation:** The Development Review Board may require pedestrian walkways to facilitate pedestrian movements. In all districts,

Commented [KR195]: Use statutory language [24 v.s.a. 4416\(a\)](#)- "parking, traffic access, and circulation for pedestrians and vehicles; landscaping and screening; the protection of the utilization of renewable energy resources; exterior lighting; the size, location, and design of signs"

Commented [KR196R195]: Subsections a - f should match the statutory language as well

the Development Review Board may require provision for pedestrian trails and walkways along waterways or other natural features to connect with similar present or anticipated trails on adjacent properties.

- c. **Access Requirements:** The Development Review Board may require service roads connecting to public roads, with provision for connection to similar service roads on adjacent property where it feels that limiting the number of intersections to the public road is in the interest of the health and safety of the community.

The DRB may specify the minimum width, turn radius, turn-arounds (to service emergency equipment), and maximum slopes of Private common Roads serving Two to Four (2-4) structures or uses.

Commented [KR197]: Standard

All roads serving Five (5) or more structures or uses, regardless of whether they are to be provided or taken over by the Town, shall be constructed to meet the current Town of West Rutland specifications.

- d. **Adequacy of Parking and Loading Facilities.** Adequacy of on-site circulation, parking, and loading facilities, with particular attention to safety including aisle widths to accommodate emergency vehicles, traffic movement patterns and location of parking areas to prevent conflicts with entering and exiting traffic onto a public street, location of loading docks and number and size of parking spaces. Particular consideration shall be given to the effect of noise, glare, or odors on adjoining properties. Refuse and service areas shall be included. Provisions for snow removal shall also be made.
- e. **Adequacy of landscaping and screening:** The objective is to achieve maximum compatibility and protection to adjacent property. Particular consideration should be given to the preservation of existing vegetation, visibility of unsightly or incompatible areas from the road and adjoining properties, and the adequacy of landscaping materials to meet seasonal conditions, soil conditions, and light on the site.

In determining the amount of planting to be required, the Development Review Board shall take into account:

1. Existing trees, shrubs, evergreens and other vegetation to be preserved on the site.
2. Visibility of incompatible or unsightly areas from roads and/or adjoining properties.
3. The need to effectively screen all parking areas from roads and adjacent properties.

4. Proximity of lots used for residential purposes.
5. Specific Landscaping Requirements.
6. All parking lots shall be screened by a strip not less than 15 feet in width with suitable plants, screening or land forms.
7. All plants, when initially installed, are to be of a size and shape approved by the Development Review Board. If the Development Review Board determined that the landscaping plan is appropriate in size, scope, etc., but that it will take several years for the plants to accomplish the screening or buffering goals, the Development Review Board may require that fencing be installed during the interim.
8. If the Development Review Board determines that plants are not appropriate, it may approve suitable fence.
9. The remainder of the required yard space shall be landscaped and maintained in good appearance.
10. Where commercial uses are located adjacent to residential buildings, there shall, to the extent practicable, be plants or attractive solid fencing to screen out, as much as feasible, outdoor lighting from the view of the ground floor of the adjacent residential buildings.
11. All landscaping shall be completed and maintained in accordance with the site plan as approved by the Development Review Board. Any dead or diseased planting shall be replaced as soon as seasonally feasible.
12. All plant species will be suitable to the property they are planted in.
13. Protection of renewable energy resources. Particular consideration shall be given to the appropriate siting of buildings in order to maximize access for solar gain to the property and adjacent properties.

- f. **Wastewater:** The construction of any building requiring the installation of on-site potable water supply and/or wastewater disposal systems shall not commence until such time that a potable water supply and/or wastewater system permit has been issued by the State of Vermont under 10 V.S.A. § 64 and Section 1104 of these regulations.

Section 904: Bond

The applicant may be required by the DRB to provide a suitable performance bond or other form of security to secure compliance with any conditions.

Section 905: Amendments

Amendments to approved site plans may be made after submitting an application to amend for review and approval by the Planning Commission.

ARTICLE X: GENERAL REGULATION

Commented [KR198]: This language could reused elsewhere where you need to revise outdated language requiring wastewater conformance. You can't require anything specific of anyone's wastewater or water supply, but you can require a permit prior to construction

Commented [SS199]: Reasonable conditions? Any is overbroad.

Commented [KR200R199]: I would align this provision with [24 v.s.a. 4464\(b\)\(2\)](#) & [4464\(b\)\(4\)-\(6\)](#).

(b)(2) says "A bylaw may provide for the conditioning of permit issuance on the submission of a bond, escrow account, or other surety in a form acceptable to the legislative body of the municipality to assure one or more of the following: the completion of the project, adequate stabilization, or protection of public facilities that may be affected by a project."

While (4), (5), and (6) are applicable in more discrete circumstances

Commented [KR201]: Wrong body - should be DRB

Section 1001: Compliance with Regulations

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

No lot shall have an area, width, or a front, side or rear yard, less than that set forth unless otherwise provided for in this Regulation.

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

Commented [SS202]: These seem repetitive and captured by the first one about everything complying with the regulations. The lot size is governed by subdivision regs or pre-existing small lot regs. Unsure these are necessary and propose deleting.

Section 1002: Existing Small Lots

1. Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, is not served by or able to connect to municipal sewer and water service, and is in existence on the date of enactment of any bylaw, including interim bylaw, may be developed for the purposes permitted in the district in which it is located, even though the small lot no longer conforms to minimum lot size requirements of the new bylaw or interim bylaw unless:

- a. The lot is less than one-eighth acre in area; or,
- b. The lot has a width or depth dimension of less than 40 feet.

2. If an existing small lot subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot. However, a nonconforming lot shall not be deemed merged and may be separately conveyed if all the following apply:
 - a. The lots are conveyed in their preexisting, nonconforming configuration.
 - b. On the effective date of any bylaw, each lot was developed with a water supply and wastewater system.
 - c. At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner.
 - d. The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 V.S.A. § 64.

Commented [KR203]: Conformance with 24 v.s.a. 4412(2)(A) - "A municipality may prohibit development of a lot *not served by and able to connect to municipal sewer and water service* if either of the following applies:

- (i) the lot is less than one-eighth acre in area; or
- (ii) the lot has a width or depth dimension of less than 40 feet."

See Act 179 of 2020 page 3:

Section 1003: Required Frontage on, or access to, Public Roads or Public Waters

Land development may be permitted only on lots which either have frontage on a public road or public water OR, with the approval of the Development Review Board, as part of the subdivision approval process, access to such a road or waters by a permanent easement or right-of-way having a minimum width of fifty (50) feet. The Select Board or their designee must approve the design of access to Town roads. Refer to Vt. AOT B 71 and Section 903-(c) of these regulations for access to VT controlled highways.

Section 1004: Protection of Home Occupations (see definition)

Nothing in this Regulation may infringe upon the right of any resident to use the inside of a minor portion of a dwelling or appurtenant accessory structure for an occupation or business which is customary in residential areas and which does not change the character thereof. In addition, all the following conditions shall apply:

1. The use must be conducted by a year-round resident of the principal dwelling. Home Occupation approval expires if the resident relocates.
2. No more than two (2) non-resident employees are allowed to work from the Home Occupation's location.
3. The uses must not have an undue adverse effect upon the character of the residential area in which the dwelling is located.
4. Any storage of customer vehicles, or equipment or inventory related to the Home occupation shall be within a structure or properly screened (as determined by the ZA or DRB) from adjacent properties and roadways.

Commented [KR204]: Consider adding (or moving) the language from the definition of home occupation regarding the size of the home occupation to the enumerated list here for clarity sake: . . . "conducted entirely within a minor portion of a one- or two-family dwelling, or the use of an accessory building on the same lot as such dwelling (less than 50% of the finished living area of the dwelling unit of the business owner)"

Commented [KR205]: Why here and not everywhere a defined term is used

Commented [KR206]: It is unconstitutional to differentiate based on the residency status of the owner - e.g. year round v. part-time residency. It would be permissible to limit to residency.

Section 1005: Group Home, Day Care Facilities, and Nursing Homes

1. Per 24 V.S.A. 4409 (d) ~~provides that~~ a licensed registered residential care-home or group home, serving not more than eight people who are developmentally disabled or physically handicapped must be considered a permitted single family residential use of property. Note. However, the statute provides that such home shall not be located within 1,000 feet of another such home.

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2. Childcare home(s) serving six or fewer children are considered a permitted use for a single-family residential use of a dwelling or property. Owners of day care facilities, requires such facilities to confer with the Zoning Administrator in advance of beginning operations to determine whether ~~the~~ Use or property requires a Town permit, or comes within a statutory exemption.

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Commented [KR207]: I broke up subsection 3 below as it dealt with two tiers of childcare facilities. I moved the permitted smaller piece to subsection 2 and kept the advisory language on consulting the ZA as advice thereafter, and left the larger childcare facilities as their own subsection (3)

3. ~~Other childcare home(s) serving six or fewer children is considered to constitute a permitted single family residential use of property.~~ A childcare facility serving more than six full-time and fortime or part-time children is a permitted or conditional use depending on the zoning district, and requires site plan review.

Commented [SS208R207]: Use defined term (and match title): day care facilities, or change title and defined term if using "child care" facility or home.

Commented [KR209]: What exemption

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Section 1006: Lot Limitations

1. The maximum (total) number of structures permitted on an individual parcel shall be limited to compliance with all other sections of these regulations; particularly Articles III, IV, and V. This requirement shall not apply to farms exempt under the Vermont Agency of Agriculture, Food, and Markets' (AAFM) Required Agricultural Practices Act.
2. In addition, the maximum number of Principal Buildings on an individual parcel shall be limited to that parcel's ability to site said buildings so that

they may be subdivided on to their own individual parcels in the future, in compliance with Articles X and XI, and Town Subdivision Regulations.

Commented [SS210]: Authority? Development just has to meet regulation's criteria for permit. Not sure future ability to subdivide is appropriate requirement.

Section 1007: Lots in More than One Zoning District

Where a district boundary line divides a lot of record at the time such line is adopted, the regulations for the less restricted part of such lot shall extend not more than thirty (30) feet into the more restricted part, provided the lot has frontage on a street in the less restricted district.

Commented [KR211R210]: Generally, there would only be one principal building/use, anything else would be a secondary structure of some sort, even if its smaller potential (depending on your definitions). So, this provision seems unnecessary. Likewise, I agree with Susan that ability to subdivide is not an appropriate requirement - If applicant can't subdivide after construction, that's their fault, no responsibility of town

Section 1008: Reduction of Lot Area

No lot shall be so reduced in area that the area, yards, lot width, frontage, coverage or other requirements of these Regulations shall be smaller than prescribed for the district in which the lot is located.

Commented [SS212]: Might make sense to include this and other more general provisions about interpreting the regulations in an article at the beginning of regulations; see TOC in Waitsfield's Zoning Regs for cleaner, more streamlined format.

The provisions of this section shall not apply when part of a lot is taken or acquired for a public purpose.

Commented [SS213]: This doesn't seem appropriate for zoning regulations; more for subdivision regulations.

Section 1009: Required Area or Yards

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

Section 1010: Temporary Structures

1. Structure(s) (see Definition) placed on a property for up to One Hundred Fifty (150) days does not require a Town permit and may be placed within Five (5) feet of its Owner's property boundaries. ~~If Temporary structures left for longer than remaining after 150 days the structure will be~~ is deemed Permanent, requiring a permit within 30 additional days therefrom, and must conform to prescribed setbacks, coverage and all other requirements in this Regulation.
2. Temporary Construction Structure permits may be issued by the Zoning Administrative Officer for a period not exceeding one (1) year, for temporary structure(s) incidental to construction projects, provided such permits are conditioned upon agreement by the owner to remove the structure or use upon expiration of the permit. Such permits may be renewed upon application for an additional period not exceeding one (1) year.

Commented [KR214]: Definition? Consider changing to "permanent structure" and adding a definition

Commented [KR215]: As I read this, any structure could be considered temporary for 150 days before needing a permit. It may be worth adding some language that makes clear they will be removed (e.g. adding "intended to be removed") and maybe define what types of structures could be considered temporary. For example, structures lacking a foundation or other features of permanency - you wouldn't consider building a foundation for a home as temporary but I could see that argument here until the 150 days have elapsed based on this provision. It might be worth noting some examples of structures that could not be considered temporary as well.

Commented [SS216R215]: Recommend adding something about a temporary structure's removal once durational limit met. Should also note temporary structure must still comply with the regulations (just don't need permit)

Commented [KR217]: When you say that a temporary structure is deemed permanent after 150 days, and then adding another 30 days before a permit is necessary, you are in effect saying temporary structures become permanent after 180 days. I would cut this clause out and pick either 150 or 180 days. Clarity and simplicity.

Commented [SS218]: I don't believe there is authority for zoning regulations to include these requirements; they should be contained in an ordinance.

Commented [KR219R218]: Belongs in a junk ordinance. You can regulate how long they have to reestablish their structure before needing to reapply as a new structure though.

Commented [KR220]: Demolition standards?

Section 1011: Destroyed or Demolished Structures

1. Within 14 days following significant damage or destruction to a structure, the Owner shall make reasonable efforts to secure the site from unauthorized entry by the public, by warning signage, barricades, and/or fencing.
2. Within One-Hundred Eighty (180) days after a permanent or temporary building or structure has been significantly damaged, destroyed or demolished, a Town permit is required for demolition and/or reconstruction. All debris and structural materials shall be removed from the site within this

180 days, and necessary excavation completed to cover over to the normal grade any cellar/foundation openings.

Section 1012: Trailers/Recreational Vehicles/Campers/Motor homes

Parking a camping trailer, travel trailer, pickup coach, motor home, etc. (see Definition) on any public or private property, is permitted only in accordance with the following:

1. The residential use of a Trailer, Recreational Vehicle, Camper, or Motor Home sited on lands of the Trailer's owner, for longer than One Hundred Fifty (150) days per calendar year requires a Town permit (see Section 1010). The Trailer shall be connected to a permitted potable water supply and sewage disposal systems approved for the Trailer's connection.
2. Temporary residential use (less than 150 days per year) of a Trailer, Recreational Vehicle, Camper, or Motor Home by the Trailer's owner is allowed without a Town permit, with written permission of the property Owner, provided there is no discharge of water or septage-sewage to the environment.
3. Trailers parked or stored in one place for longer than Fourteen (14) days shall maintain a minimum setback of Ten (10) feet from all property boundaries.
4. Trailers may be parked in a FEMA Special Flood Hazard Area (but not in a Floodway), **only** if fully licensed and maintained to be ready for highway use and use and relocation in a flood emergency.
5. Trailers shall not be used for storage of trash, garbage, junk, feed, hazardous materials, etc.

Commented [KR221]: Constitutional concern - disapproving use based on ownership status - I recommend removing this clause.

Commented [KR222]: Constitutional concern - disapproving use based on ownership status - I recommend removing this clause.

Commented [KR223]: Not towns concern/purview - permit would be with landowner. Do you mean notice to the town?

Commented [SS224]: Authority? Flood area criteria would control what is allowed or not; propose deleting this.

Commented [KR225R224]: At a minimum, run it by the RPC to see what they say

Section 1013: Height of Structures

No structure shall exceed a height applicable to the district. This limit shall not apply to spires, cupolas, chimneys, ventilators, tanks, or similar parts of building, occupying in the aggregate not more than 10 percent of the area of such building. This limit shall not apply to television aerials, communication towers or to windmills with blades less than 20 feet in diameter or to rooftop solar collectors less than 10 feet high which are mounted on complying structures.

Section 1014: Approval of Plats

No proposed plat of a new subdivision, re-subdivision, or Boundary Line Adjustment shall be approved unless the lots within such plat equal or exceed the dimensional requirements set forth in the districts in which the lots are located and adequate drainage is provided.

Commented [SS226]: This doesn't belong in the zoning regulations, it would go in the subdivision regulations.

Section 1015: Ponds Requiring Permits ^a

A zoning permit shall be required for the construction of any pond over one-quarter (1/4) acre in water surface area. ~~The Town permit may not be issued without documented compliance with VT and federal regulations that may apply.~~

Commented [KR227]: Any additional standards beyond basic district setbacks? Very broad provision, applicant would merely need to show they met the setbacks and a permit would be granted. Other considerations?

Commented [SS228]: Authority to require this?

Section 1016: Site Development

Any site development involving the import or removal of earthen materials with a total volume of over 30 cubic yards OR which has the effect of making a parcel

Commented [KR229R228]: To my knowledge, the only state permit municipalities are empowered to require proof of in the zoning process is the wastewater and potable water supply permit. I would strike this clause

developable or buildable where it was not previously shall be done only after issuance of a Zoning permit (also see Section 1024).

4. Any project that involves fill or removal of over 200 cu. yds. of earthen material shall require the approval of the Development Review Board.

Commented [KR230]: Can't only have a #1.

Formatted: No bullets or numbering

Commented [KR231]: Conditional use? Site plan?

Section 1017: Accessory Buildings; Accessory Dwelling Units; Apartments.

1. *Accessory Buildings*: Each residential use in a residential district may have a total coverage area resulting from the sum areas of all permanent structures (detached outbuildings, garages, carports, storage sheds, greenhouses or similar accessory use buildings)- on a lot. All such outbuildings accessory buildings shall comply with the dimensional requirements of the district in which they are located. All other uses in a residential district may not have more than one accessory use building.

Commented [KR232]: consistency

2. An *Accessory Dwelling Unit* (ADU) is a permitted use in any district - for possible permit exemption see Section 1103 (14) - except in flood or fluvial erosion hazard areas, in which single family dwellings are a permitted use. A Town permit and all the following requirements or restrictions apply to an *Accessory Dwelling Unit* (refer to 24 VSA Ch. 117 Section 4412(1)(E)):

- a. Floor space of the ADU shall not exceed thirty percent (30%) of the total conditioned habitable (heated or cooled) living floor area floor space of the single family residence's- existing living area, (excluding unfinished or un-conditioned basements, attics, attached garages), OR ~~four~~nine hundred (900) square feet whichever is greater.
- b. The primary single-family residence is occupied by the owner.
- c. Only one (1) ADU is permitted under this provision and is limited to efficiency or one bedroom use.
- d. The unit is constructed within the principal structure, or in an attached or appurtenant accessory structure on the same lot as the primary single-family residence and located in a District in which single-family residences are a permitted or conditional use.
- e. The property must have sufficient and approved wastewater disposal and potable water supply capacity.

Commented [KR233]: Consistency with 4412(1)(E)

Commented [KR234]: Revised for conformance with 4412(1)(E)(ii) - "The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling or 900 square feet, whichever is greater"

Commented [KR235]: Revise for conformance with 4412(1)(E) which requires bylaws to permit an "owner-occupied lot" where the owner could reside in either the principal or accessory

Commented [KR236]: No longer permitted. Act 179 of 2020 changed definition of accessory dwelling in 4412(1)(E) from "An accessory dwelling unit means an efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling" to "an accessory dwelling unit means a distinct unit that is clearly subordinate to a single-family dwelling." This change removes the bedroom limit

3. Apartments are not limited to the requirements of an Accessory Dwelling Unit. Apartments must conform with all applicable sections of zoning regulations

Commented [KR237]: I don't believe this subsection is necessary - ADU and multi-family/two-family requirements will cover any apartments.

If it doesn't fit into ADU, then it is a multi-family dwelling

Commented [SS238]: This section unnecessary; You can address setback waivers for ADA structures in their own section. What is an ADA structure? Define

Section 1018: American Disability Act Accessibility

An A.D.A. structure that does not meet prescribed setback requirements may be allowed, as long as the structure does not impede the sidewalk plow, and maintains a minimum setback of Three (3) feet from property boundaries. Scaled drawings and a Site Plan shall be submitted to the Zoning Administrator for review prior to construction. Landing areas for ADA ramps systems shall be sized for the minimum area required. Open or covered ADA ramps and landings are allowed. No zoning Permit is required for complying structures. Open decks or

porches larger than 36 sq. ft. in area or other non-ADA uses are not exempt under this Section.

Commented [KR239]: This should be included in the Exemption section (1103)

Section 1019: Prohibited Uses

All uses not specifically allowed according to the provisions of this Ordinance shall be considered prohibited in all Districts. To further the purposes of this Ordinance, and to further clarify other sections and provisions contained in this ordinance, the following uses are expressly prohibited in the Town of West Rutland:

Commented [SS240]: Many on this list seem overbroad. Salvage yards are licensed by the State, for instance. Using a basement of uncompleted structure for dwelling? Seems like it could be used if dwelling permit and CO obtained...

Commented [KR241R240]: As Susan alluded to below, I would delete this entire section from "to further thie purposes. . ." on. Prohibited uses will be decided based on what is allowed (if not allowed, its prohibited)

Commented [SS242]: I'd include "In addition" to the beginning of this section to clarify the default rule is unspecified/unexpressed uses in the lists are prohibited and these are just extra examples.

Commented [KR243R242]: I would delete everything from "to further this purpose" on. I don't believe it adds anything.

1. Dumping, storing, burying, reducing, disposing or burning garbage, refuse, scrap metal, rubber, offal or dead animals, except such as result from the approved and permitted use of the premises, and except municipally approved collection sites. (see Section 1025 a)
2. Junkyards, automobile graveyards, or places for the collection of scrap metal, paper, rags, glass or junk for storage purposes. (NOTE) Excludes approved recycling facility.
3. Use of the basement of an uncompleted structure, wholly or partially below grade of the lot upon which it is located, for dwelling purposes.
4. Crematories.
5. Business from cars, trucks, catering vans, trailers and temporary retail stands on either public or private land **unless** in compliance with the Town Ordinance on Lawn Sales & Vendors (adopted 4/8/2019) for a short term license, or a town permit under Section(s) 1004 (Home Occupations) or Article III (Table of Uses).
6. Temporary stands for the sale of farm products **providing-unless** these are in accordance with VT's Required Agriculture Practices Act. The Zoning Administrator may request the Stand's operator to provide a qualifying Determination Opinion Letter from VT's Agency of Agriculture, Food, and Markets.
7. Occupancy of travel trailers or other recreational vehicles or structures for dwelling purposes except as allowed in Section 1012.

Commented [SS244]: These refer to sections governing these uses so I don't think it's necessary to reiterate. Delete.

Commented [SS245R244]: You could go through the entire list of non-complying uses that are prohibited but general rule is anything not approved/permitted is prohibited/violation. Don't need to list everything.

Commented [SS246]: What does this mean?

Section 1020: Vegetative Buffer Strips

(Removal of vegetation along Clarendon and Castleton rivers.)

In order to provide a filter for nutrients and sediments, as well as a visual break, cutting and removal of vegetation in the area parallel to the river banks of the Castleton and Clarendon rivers, and extending 50 feet inland, is not permitted, except as follows for:

- a. Recuperation cuts when the goal is to revitalize an ecosystem which is in decline or has been damaged by fire, wind, disease, or other natural disasters.
- b. Removal of dangerous dead or dying trees.
- c. ~~A-Constructing~~ a path no more than six (6) feet wide, perpendicular to the river, for access.
- d. Removal of vegetation on working agricultural properties in keeping with ~~Accepted-AAFM Required~~ Agricultural Practices.

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Section 1021: Removal of Vegetation Along All Other Rivers and Streams

Landowners are strongly encouraged to leave vegetation untouched within an area of at least 50 feet parallel to all river and stream banks not listed in Section 1021. (Note: VT Water Quality rules also regulate vegetative removal)

Commented [SS247]: This seems general and oddly placed. Maybe in each district description a vegetative buffer strip is encouraged to be maintained? Not sure zoning regs are the place for "encouragements" rather than requirements. Maybe just include it in the section 1020 above?

Commented [KR248R247]: I agree that it fits better embedded in 1020.

Section 1022: Golf Courses and Driving Ranges

New golf courses and driving ranges, or the expansion of existing golf courses and ranges, may beare allowed in designated zoning districts subject to conditional use review by the Development Review Board under the following standards. Miniature golf courses (included under the definition of "outdoor recreation") are specifically exempted from the requirements of this section.

1. Application Requirements:

In addition to the application information required under Section 402; applicants for a golf course or driving range shall submit a Site Plan showing the following:

- a) Golf course or range layout including the location of existing and proposed tees, greens, fairways, traps, practice ranges, buildings, roads, cart paths and parking areas;
- b) Existing elevation contours and land cover; field located site features (surface waters, wetlands, floodplains, natural areas, wildlife habitat), proposed site modifications, and the location of existing and proposed wells and water quality monitoring stations.
- c) Information regarding anticipated ball trajectories (directions, distances) in relation to adjoining properties and public rights-of-way, and associated landscaping, screening and/or other protective barriers;
- d) A course management plan, including operation and monitoring protocols.
- e) Minimum dimensional requirements, including Minimum Setback from Rights-of Way or Property Lines:
 - i. Golf Course 100 feet
 - ii. Driving Range 100 feet

Commented [SS249]: Same comment throughout: have one general application section which this provision should refer back to.

2. General Design Standards.

- e. Golf courses shall be designed to:
 - f. Best preserve and enhance the ecological function of existing natural features, including but not limited to surface waters, wetlands, and critical wildlife habitats and corridors within and adjacent to the site;
 - g. Incorporate natural terrain to the extent feasible, to minimize the amount of site modification (clear cutting, grading and filling) required and to avoid areas of steep slope;
 - h. Minimize the number and length of stream crossings;
 - i. Preserve and/or re-establish riparian habitat within required buffer areas; and
- minimize the use of fertilizers and pesticides and associated impacts to water quality through the selection of disease resistant turf grass, integrated pest

management, resource efficient irrigation and drainage systems, biofilters, and other similar management practices.

3. *Groundwater Separation.*

Greens and tees shall be located in areas where the depth to bedrock or maximum high water table is greater than four feet below the surface, as determined by field tests. Under drain systems for greens and tees must also maintain four feet of soil separation between subsurface leaching systems and bedrock and/or high water tables.

4. *Pesticides.*

Golf courses and driving ranges must meet all applicable state and federal regulations for the storage, application and disposal of pesticides, including pesticide application on golf courses as regulated by the Vermont Agency of Agriculture, Food and Markets. Pesticides and other hazardous materials shall be stored in an enclosed, secured building.

5. *Monitoring.*

The Board may require the establishment of preconstruction (baseline) surface and ground water quality conditions, and the subsequent monitoring of surface and ground waters to determine the effects of golf course development and operation on water quality.

Commented [SS250]: This is a given for any application/development. Propose deleting.

Section 1023: Fences

1. Fences and vegetative hedges may be built in front, side and rear yards provided the fence does not exceed six (6) feet in height when measured from the ground up, and are maintained in a proper state of repair with the finished side of such fence facing the adjacent properties. Fence setbacks on side and rear yards shall be 3 feet, or comply with Section 1023(3e) & (4).
2. Such a fence or vegetative hedge is to be set back a minimum of 5 feet from a Town sidewalk except in the Village Zone where the distance from the sidewalk edges will be 3 feet, AND a minimum of 32 feet from centerline of travel lane of 3 Rod (total width of Right Of Way (R.O.W) = 49.5 ft.) wide roads in Residential, Commercial, Conservation, and Industrial zoning districts.
3. If a property line fence is proposed the Applicant must first obtain written permission from all adjoining property Owners impacted, signed and dated by all such Property Owners documenting (unless other written arrangements are agreed) mutual consent to All the following:
 - a) The approximate location of the common boundary line (plus/minus one foot on to either property);
 - b) That the Parties agree on the fence placement, design, and facing of finished side;

Commented [KR251]: With or without a permit?

Commented [KR252]: Unclear. And, "proper state of repair" is subjective, I would leave as "maintained" because that can be measured, arguably.

Commented [KR253]: I would add this to end of previous sentence, reading: . . . and it is setback a minimum of 3 feet from side and rear property lines.

Commented [KR254]: shall

Commented [KR255]: For clarity, try: "it shall be setback a minimum of three (3) feet from a town sidewalk"

Commented [KR256]: This should be its own subsection and probably fits best before the sidewalk setback as it is more encompassing - e.g. 1023(2).

Commented [KR257]: More clarity. Is this for any fence closer than 3 ft per 1023(1)?

Commented [SS258R257]: This is confusing and conflicts with the other fence requirements. Is it a setback waiver? Or exemption if all criteria are met?

- c) That the fence is the sole ownership of the Party installing the fence; who is then responsible for the fence's customary maintenance, repair, replacement, or removal;
 - d) That the adjoining property Owner grants the fence owner permission to access adjoining property in order to maintain and repair fence.
4. This agreement shall be submitted with any application for fences proposed on or within one foot of a Boundary Line or legal private easement or R.O.W.

Commented [KR259]: Should be 3 ft for consistency with 1023(1)

SECTION 1024: MINERAL AND EARTH RESOURCE EXTRACTION

Mineral and earth resource Extraction

In addition to all other application standards, any use which involves the extraction of mineral or earth resources shall comply with the following:

1. The owner—operator or lessee-operator shall submit a site reclamation plan showing how a site will be improved to a safe and attractively landscaped condition upon cessation of operations.
2. Prior to the issuance of a Zoning Permit for a new use or extension of an existing use a performance bond shall be filed with the Town in an amount sufficient to ensure the restoration of a site to a safe and attractively landscaped condition upon cessation of extractions from the site.
3. The creation of pits or steep slopes shall not be permitted unless provisions are made to refill each pit or cut the sides of steep slopes in a manner which will ensure public safety and prevent erosion. Earth slopes greater than 2-horizontal/1 vertical shall not be allowed to remain.
4. Excavation and open pit extraction sites shall be graded, fertilized, mulched and reseeded so as to establish a firm cover of grass or other vegetation to prevent erosion. Such work shall be inspected and approved by the Zoning Administrator prior to the release of any bond.
5. There shall be no excavation within 50 feet of a property located in a residential zone or within 25 feet of any other property line.
6. An adequate surface storm water and water discharge drainage system for the entire area shall be provided. The 25-year storm event shall be the basis for the design of storm water measures. Plans to handle storm water or water discharge, including determinations as to the adequacy of existing and future facilities both upstream and downstream, shall be provided by the subdivider's professional engineer and must be approved by the Town Engineer (or other professional designated by the Town). In most cases, the applicant will be required by the Commission to carry away by pipe or open ditch any spring, surface water or water discharge from a Mineral and Earth Resource extraction Site that may exist either previous to or as a result of the applicants activities. Any culverts or other drainage facilities shall be large enough to accommodate potential run-off from its entire upstream drainage area, whether inside or outside the applicants work site. Where it is anticipated that additional run-off incidental to the development of the work site will overload an existing downstream drainage facility so that there will be drainage to private property or an increase in the expenditure of public funds, the Commission shall not approve the application until provision has been made for the improvement of

Commented [SS260]: This is confusing and vague. Who receives site plan? Who can require bond? What is review?

said condition. Where a Mineral and Earth Resource Extraction Site is traversed by a water course or drainage way or contains a storm water management facility, there shall be provided a storm water drainage easement of such width as to encompass the 25-year flood area of such water course or facility, which easement shall be indicated on the site plan. The applicants engineer must show how erosion debris and other loose material will not be allowed to enter any drainage course, street or private property.

Commented [KR261]: Stormwater rules must be consistent with state stormwater rules, I would confer with the RPC for help determining if they conform.

See [24 v.s.a. 4414\(9\)](#). "Stormwater management and control. Any municipality may adopt bylaws to implement stormwater management and control **consistent with the program developed by the Secretary of Natural Resources** pursuant to 10 V.S.A. § 1264." (emphasis added).

DEC Stormwater Page: [See \(vermont.gov\)](#)

Commented [KR262]: Enforceability issues, this should probably be in an ordinance?

Commented [SS263R262]: Could be condition on DRB approval. But I agree with it being outside zoning and should be a generally applicable ordinance or related to a specific condition if reasonable.

SECTION 1025: OPEN STORAGE

1. In ALL Zoning Districts, trash, garbage, food and other waste materials shall be kept in covered-, durable, animal resistant containers or bins; in the side or rear yards except when moved curbside for pickup service. Unregistered vehicles, campers, trailers, or structures which are not secured against animal invasion are not acceptable storage containers.
2. In any Residential or ~~Village district~~ Village district, the following must be enclosed in a building, or be stored within a fully-screened area (fencing or screening as approved under Section 1023 or Development Review Board) ~~and shall~~ and shall be a minimum of 6 feet high.
 - a) Vans and trucks of more than twelve ton carrying capacity that are used for commercial purposes.
 - b) Vehicles for the purposes of competitive racing or motor sports.
 - c) Loose materials (recyclable, scrap, salvage, etc.) of any sort.
3. In ALL Zoning Districts, no more than 1 motor vehicle may be openly stored or parked that is not currently inspected and registered.

Section 1026: Keeping of Animals

1. **Purpose & Minimum Standards:-** These are to apply to ownership of -ALL Animals kept within the Township:
 - a. Animals are to be adequately & continuously sheltered, fed & watered.
 - b. Animals shall be kept enclosed within the Owner's property (or with a written signed agreement to use lands of others); unless under direct control of the Owner at all times.
 - c. Enclosures are to be designed to prevent flight (in case of poultry) and access by predators.
 - d. The total number of animals kept shall be appropriate for the enclosed area available.
 - e. The regular management and proper disposal of wastes and offal is required.
 - f. The storage of feed shall be designed to prevent attracting vermin.
 - g. Animal noise and odors shall not travel beyond the Owner's property boundaries.

Commented [KR264]: All of 1026 should be a stand alone ordinance - how you use not what & where you can use. Recommend this section to selectboard as backyard animal ordinance

Commented [SS265R264]: Agree. Could regulate where kennels allowable, etc. And reasonable conditions associated. But a generally applicable ordinance required for defining nuisances, etc. Delete entire Section 1026 and list exemption for farm structures and other things in exemption section. Animal control and nuisance ordinances under purview of SB.

Commented [KR266]: Standard? May be unenforceable

Commented [KR267]: ???

Commented [KR268]: This provision may make all backyard farms in violation as it is likely some sound and odor will cross boundaries - this is a defacto ban except on large parcels. You should soften this somehow or otherwise you will open up an avenue for any neighbor to challenge anyone's backyard farm located on a small lot (unless that's your goal).

2. **Public Nuisance; Nuisance Animals:** Any of the following conditions are grounds to determine an ~~animal or animal~~ or any mix of animals a -Public Nuisance or -Nuisance Animal(s) which is prohibited:

a. Any Animal that repeatedly or habitually disturbs the rights of, threatens the safety of, or injures a member of the general public or their animals, or interferes with the right of ~~O~~others in their ordinary use and enjoyment of their property. This includes but is not limited to:

- 1) Noise created by animals that can be easily heard ~~by~~by others at or beyond the animal owner's property boundaries.
- 2) Animal actions that are repeatedly allowed or are permitted to damage the property of Others; including but not limited to turning over trash containers, defecating on others, property, damaging land improvements, landscaping, gardens or farm land of Others.
- 3) ~~Bothering~~ or injuring Others or the animals of Others by threatening snarling or barking, chasing, snapping or attacking.
- 4) Failure to maintain Animals in a sanitary environment which results in a health danger to the Public, attracts predatory animals or vermin, or creates offensive odors that travel beyond the animal owner's property boundaries.

Commented [KR269]: Why capitalized?

Commented [KR270]: standard

Commented [KR271]: Very subjective term - maybe "harassing" is a better term here

Commented [KR272]: "poses a risk to the public health"

3. **Farm Animals:** The following species are determined to be Farm Animals and/or Livestock under 10 VSA Section 6001 and subsequent VT Agriculture, Food, & Markets (VAF&M) statutes: Bees; Fish; Poultry (chickens, geese, turkeys, partridge, quail); Camelids (camels, alpaca, etc.); Pigs/Swine; Ratites (ostrich, emus, etc.); Equines; Cattle or Bison; Sheep; Goats; red Deer, Rabbits.

- a. In accordance with Section 1103 of these Zoning regulations, and under 24 VSA Ch. 117, Section 4413, qualified Farm operations, as determined by VAF&M, ~~are~~ exempt from Municipal regulations but subject to VT policy and statutes.
- b. Unless determined to be a Family Pet or a Support Animal, as defined in following language, Farm Animals are *prohibited* on Residential property having a total area of less than two (2) acres.
- c. Unless exempt under paragraph ~~a, thea, the~~ following minimum enclosure standards for Farm animals shall be:

Table 1026(3)(c) Minimum Enclosure Standards for Farm Animal Management

Animal	Min. Enclosed Area (in sq. ft.) Per Animal (for up to 4 animals)	Min. Enclosure Setback (ft.) to Inhabited Structure (i.)
Chickens, Poultry	10	100

Cattle	2500 sq. ft.	50
Buffalo	22,000	150
Donkey, Horse, Mule	22,000	50
Emu, Ostrich	500	50
Llama	2,500	50
Pigs/Swine	500	150
Rabbits	3	25
Sheep, Goats	500	50

Commented [KR273]: Why red?

i. Setbacks are measured from closest point on fenced animal area to all residential buildings on all adjacent parcels. If an enclosure is to serve a diverse mix of animals, the largest enclosure area and minimum setbacks shall apply. All Animal Shelters shall maintain same minimum setbacks, and their "footprint" area is to be included as part of the enclosure area.

ii. The Zoning Administrator may approve Town Permit for a Farm Animal application that is compliant with the standards set in Section 1026. A Property Owner may apply for an alternative animal management plan, which shall be evaluated as a Conditional Use by the Development Review Board.

Commented [KR274]: Will need to be established as enforcement officer for ordinance

Commented [KR275]: Might be better located at the end of 1026(1) - Purpose & Minimum Standards: These are to apply to ownership of ALL Animals kept within the Township and the Zoning Administrator may only approve a Town Permit for a Farm Animal application that is compliant with the standards set forth in Section 1026.

4. **Family Pet:** A domesticated animal that is kept by a person for companionship or pleasure, and not for a disability or commercial use. For the purposes of Section 1026, the following Animal types and **maximum number** shall be considered **Pets**, and allowed on Residential property having a total area of less than two (2) acres.

Commented [KR276]: What are standards for "animal management plan." Might be best as another section (e.g. 1026(4). The DRB would also need to be included as enforcement officers if you want to include them, and then incorporate by reference Section IV (conditional use) provisions into the ordinance for their hearings to operate. That is a highly unusual technique though.

Commented [KR277]: consistency

Bees: Industry standard for number of Hives

Dogs: Four (4)

Cats: (if allowed out-of-doors and spayed/neutered): Four (4)

Fish: per industry standard for size of pond/tank

Small Mammals: Rabbits, Guinea pigs, Hamsters, Rats – maximum of Six (6) animals total;

Parrots & Cockatoos (if allowed out-of-doors) Two (2)

Poultry: Not to exceed twelve (12) birds total on less than a two (2)

acre parcel having an inhabited structure.

Enclosure and structure setbacks to other inhabited buildings the same as in Table 1026(3)(c).

Roosters are prohibited on parcels less than two acres in area.

Commented [KR278]: What if not allowed out of doors? Is there no restriction then? Might want to clarify

Commented [KR279]: What if not?

Commented [KR280]: superfluous

Commented [KR281]: What about if without structure? If structure required say so, if not, remove language.

Commented [KR282]: "Must satisfy"

5. **Service and Emotional Support Animals** (usually enrolled on the Official US Service Animal & Support Animal (ESA) Registry). Service or Support

Animals are allowed access and protections under state and federal laws. Family pets do not qualify as Service or Support Animals.

a. **Service Animals** are a breed of Dog (or miniature horse) individually trained to do work or perform specific tasks for the benefit of an individual with a disability.

b. **Emotional Support Animals** are companion animals (of common domestic nature) that have been prescribed for its Owner by a treating medical professional that has determined the animal provides a benefit for the individual with a disability.

6. Family Pets and Service Support Animals are also subject to any other applicable West Rutland animal Ordinances.

7. **Invasive, Venomous, Wild and/or Exotic Animals:** Except noted otherwise by law it is unlawful for any person to bring into or possess in VT any live wild, or live ovum or semen thereof, of any kind without application and approval of the VT Fish & Wildlife Commissioner. (10 App. VSA Section 18(4.1)).

ARTICLE XI: ADMINISTRATION AND ENFORCEMENT

Section 1101: Zoning Administrative Officer (ZA)

The Selectboard shall appoint a Zoning Administrator from nominations submitted by the ~~Development Review Board~~ Planning Commission for a term of three (3) years in accordance with the Act [§4448]. The Selectboard may remove a Zoning Administrator for cause at any time after consultation with the ~~Development Review Board~~ Planning Commission.

Commented [KR283]: See 24 vsa 4418(b) [Vermont Laws](#)

An acting Zoning Administrator may be appointed by the Selectboard, from nominations submitted by the ~~Development Review Board~~ Planning Commission, who shall have the same duties and responsibilities of the Zoning Administrator in the Zoning Administrator's absence. In the event an acting Zoning Administrator is appointed, the Selectboard shall establish clear policies regarding the authority of the Zoning Administrator relative to the authority of the acting Zoning Administrator.

Commented [KR284]: 4418(B)

The Zoning Administrator shall literally administer ~~these~~ the Regulations and shall not have the power to permit any land development that is not in conformance with ~~these~~ the regulations. In so doing, the Zoning Administrator shall inspect developments, maintain records, and perform all other necessary tasks to carry out the provisions of these Regulations.

The Zoning Administrator ~~should~~must inform any person applying for municipal permits or authorizations that the person should contact the VT Regional Permit Specialist in order to assure timely action on any related state permits; nevertheless, the applicant retains the obligation to identify, apply for, and obtain relevant state permits.

Commented [SS285]: 24 VSA 4449(e)

Section 1102: Zoning Permits

The Zoning Administrator should assist applicants, to the extent possible, with local permits and requirements of these regulations. If other local permits or authorizations are required, the Zoning Administrator should coordinate a unified effort on the behalf of the Town in administering its permitting and development review process.

Land Development (see definition) may be commenced in the Town of West Rutland only after the Zoning Administrator issues a permit for the following:

Commented [SS286]: Merge with 1104?

1. Hereafter ~~the division of a parcel into two (2) or more parcels~~, the construction, conversion, structural alteration, relocation, demolition, or enlargement of any building(s) or other structure(s), 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 shall commence only in compliance with all regulations in this bylaw for the district in which such building or land is located.
2. A permit shall not be required for interior or exterior changes that do not change ~~or expand~~ the permitted use, or ~~expand the~~ footprint ~~and or~~ height of a structure, or modify any conditions that may have been set by the Development Review Board.

Commented [SS287]: Delete; include in subdivision regulations.

Section 1103: Exemptions

~~Note:~~ These exemptions ~~do may~~ not apply in any ~~Special Flood Hazard Area~~.

~~+~~ No zoning permit shall be required for the following activities:

- j. ~~Accepted or Required Agricultural Practices (AAPs, RAPs) by a VT qualified farm operation~~, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets, in accordance with the Act [§4413(d)].
- k. Required Notification to the Town: Written notification of the Farm's Intent to construct, including a sketch plan showing structure setback distances from road rights-of-way, property lines, and surface waters shall be submitted to the Zoning Administrator prior to any construction, as required by ~~VT's Agricultural Acts~~AAFM

Commented [KR288]: Don't forget the embedded exemptions noted earlier in the document. They should be consolidated here as much as possible.

Commented [SS289]:

Commented [SS290R289]: May consider requiring the ZA determine whether it is exempt (which would be documented and appealable). Just so there is a record of determined exemptions.

Commented [KR291]: Formatting: This should be intro text without a #, and the following lettered subsection should be the start of the list (e.g. instead of j., k., l., it should be 1., 2., 3., etc.)

Formatted: No bullets or numbering

Commented [KR292]: Clarity - Suggested re-write: A VT qualified farm operation covered by AAFM Required Agricultural Practices (RAPs), including the . . .

Commented [SS293R292]: AAPs are no more.

RAPs. Such structures shall meet all setback requirements under these regulations, unless specifically waived by the Secretary.

- I. The Zoning Administrator may require a Determination Letter from the Secretary of the Agency of Agriculture, Food, and Markets, prior to issuing review approval to a Notice of Intent to Construct an Ag. structure.

Commented [SS294]: No authority for this. Can require site plan be submitted to ensure setbacks met, or notify applicant/Ag if not.

2-1. Accepted Management Practices (AMPs) for silviculture (forestry) as those practices are defined by the Commissioner of Forests, Parks and Recreation, in accordance with the Act [§ 4413(d)].

3-2. Power generation and transmission facilities, which are regulated under 30 V.S.A. §248 by the Vermont Public Service Board. Such facilities, however, should conform to policies and objectives specified for such development in the Municipal Plan.

4-3. Wireless Telecommunication facilities, which are regulated under 30 V.S.A. §248 by the Vermont Public Utility Commission. Such facilities, however, should conform to policies and objectives specified for such development in the Municipal Plan.

5-4. Hunting, fishing, and trapping as specified under 24 V.S.A §2295 on private or public land. This does not include facilities supporting such activities, such as firing ranges or rod and gun clubs, which for the purposes of these regulations are defined as outdoor recreation facilities [or other use].

6-5. Normal maintenance and repair of an existing structure which does not result in exterior alterations, ~~or~~ expansion or a change of use.

7-6. Interior alterations or repairs to a structure which does not result in exterior alterations, or expansion or a change in use.

8-7. Residential entry stairs (excluding decks and porches), handicap access ramps and required landings (see Section 1018) that do not interfere with public services or obstruct traffic visibility.

9-8. Minor grading and excavation associated with road and driveway maintenance and lawn and yard maintenance (e.g., for gardening or landscaping), or which is otherwise incidental to an approved use. Open Patios constructed entirely of earthen or masonry materials may be considered landscaping and not subject to coverage areas (per Article III).

This specifically does not include extraction and quarrying activities regulated under Section 1024 or Fill regulated under Sections 901(3) & 1016).

Commented [KR295]: Make this its own exemption then you wont have to tie yourself in knots trying to call patios "landscaping" and you can just say patios are exempt

10-9. Outdoor recreational trails (e.g., walking, hiking, cross-country skiing and snow mobile trails) which do not require the installation of

structures or parking areas.

~~11.10.~~ 11.10. Garage sales, ~~Lawn~~ lawn sales, auctions, or similar activities that do not exceed three (3) consecutive days, nor more than three (3) Lawn Sales in any calendar year. For additional sales or any Vendor activities, a seasonal license shall be required (refer to Town Ordinance on Lawn Sales).

~~12.11.~~ 12.11. A fence no higher than 3 feet that is 10 feet off the front property line and 3 feet off the side and rear lot lines. (Refer to Section 1023 for other fences)

~~13.12.~~ 13.12. Temporary Tents or Shelters of fabric & ~~fame~~ frame construction, not left on premises for longer than 90 days.

~~14.13.~~ 14.13. Detached storage structures that are 120 sq. ft. or less in floor area and a maximum of 10 feet above grade. This exempt storage structure is also exempt from minimum prescribed side and rear setbacks, ~~provided~~ ed it is ~~placed in the side and rear yards and a minimum of~~ three (3) feet from these property lines.

~~15.14.~~ 15.14. Municipal Projects (including Conditional Uses) involving Essential Town Services (ie. Town owned Office, Maintenance, Waste Disposal, Public Works, Fire & Rescue, Highway, Library, Recreation, and School) Facilities, providing the project or use ~~(upon review by the Zoning Administrator)~~ conforms to Articles III, V, VI, VIII of zoning regulations.

Commented [KR296]: Consistency - align with 1023

Commented [KR297]: superfluous

Commented [KR298]: Particularly because of the word "review," this feels a lot like you are requiring a permit but this is the exemptions. I would recommend reusing the site plan language for RAPs in 1103(1) above and catering it to the town. See the following: "Required Notification: Written notification of the Town's Intent to construct, including a sketch plan showing structure setback distances from road rights-of-way, property lines, and surface waters shall be submitted to the Zoning Administrator prior to any construction."

Commented [SS299]: Identify all required contents in order for application to be considered complete. Type or use specific applications can include extra pieces. Should be consistent and avoid endless game of back and forth between ZA and applicant.

Commented [KR300]: No obligation to refer to the state, ZA only acts on these bylaws and either grants, denies, determines no permit is necessary (exempt) or refers to the DRB (not planning commission). If a state permit is required that is wholly separate from these bylaws and is the responsibility of the applicant. Although these bylaws can condition issuance of a permit on receipt of certain state permits.

Section 1104: Zoning Applications, Permits, Issuance:

1. All applications shall be submitted to the Zoning Administrator on forms furnished by the Town and shall be accompanied by three (3) copies of a **Site Plan**, drawn to scale, showing the dimensions of the lot to be built on, location of the building and accessory buildings to be erected, a surveyor's plot plan, aerial photograph, or other acceptable description of the property, if available, and such other information as may be necessary to determine and provide for the enforcement of this Regulation.
2. An application for any permit shall be accepted by the Zoning Administrator **only if it is complete and accompanied by** the Site Plan and required Fee (payment in cash, check or money order made payable to the municipality) that shall be established and reviewed by the Select Board from time to time.
3. Within thirty (30) days of receipt of a complete application, including all application materials, fees, the Zoning Administrator shall act to either issue or deny a zoning permit in writing, or to refer the application to the Planning Commission, Development Review Board, and/or the State for consideration.

~~4. If the Zoning Administrator fails to act with regard to a completed application for a permit within thirty (30) days, a permit shall be deemed issued on the 31st day.~~

~~5.4. No zoning permit shall be issued by the Zoning Administrator for any use or structure which requires the approval of the Planning Commission or Development Review Board until such approval has been obtained. For permit applications that must be referred to a state or federal agency for review, no zoning permit shall be issued until an approval has been received from the state or federal agency.~~

~~6. No Zoning application shall be approved if the property owner has an open or unresolved Formal Notice of Zoning Violation on record for the same property.~~

7.5. If public notice has been issued by the Legislative Body for their first public hearing on a proposed amendment to these regulations, for a period of 150 days following that notice, the Zoning Administrator shall review any new application filed for compliance with the proposed amendment and applicable existing bylaws. If the new bylaw or amendment has not been adopted by the conclusion of the 150 day period, or if the proposed bylaw or amendment is rejected, the permit shall be reviewed under all applicable provisions of this bylaw [24 VSA §4449(d)].

8.6. Each zoning permit issued under this Section shall contain a statement of the period of time within which an appeal may be taken.

9.7. Within three (3) days following the issuance of a zoning permit, the Zoning Administrator shall:

- a. Provide a road side Notice Poster to the Permit recipient, with instructions to display for a minimum of 15 days;
- b. Post a notice of the permit in at least one public place for at least 15 days; and
- c. Deliver a copy of the permit to the Town Listers.

Commented [KR301]: No authority to condition approval on state permits except for WW and potable water supply permits - WW permits. You may want to say no dwelling can be approved without WW permit, but broad stroke like this is impermissible.

Commented [SS302R301]: Only allowed to require proof of WW permit in holding up zoning permit.

Commented [KR303]: Unenforceable - a zoning violation is enforced separately from processing a permit application. When reviewing a permit application, the only thing that can be considered is how the application complies (or does not) with the bylaws and not whether some other violation is outstanding.

Commented [KR304]: Would be nice to note the time for appeal here

Section 1105: Effective Date

1. When a zoning permit is issued by the Zoning Administrator, it shall not take effect until the expiration of a fifteen (15) days appeal period. No site work or building shall occur until the Effective Date Appeal Period of the permit has passed without a formal appeal. In the event that notice of appeal is properly filed, such permit shall not take effect until the final adjudication of said appeal.
2. If a Development Review Board (written) decision was required for the issuance of the zoning permit; interested parties have up to thirty (30) days

Commented [KR305]: . . . From date of decision

in which to appeal this decision to ~~VT's~~ Vermont Superior Court ~~(Environmental Division)~~.

3. Starting a project prior to the ~~e~~Effective ~~d~~Date of a permit, or while the permit is in appeal, are grounds for the Zoning Administrator to ~~double the Zoning Fee or~~ issue a Notice of Violation. All unpermitted work is to cease until an approved permit is in effect.

Commented [SS306]: No authority to do this as part of enforcement. You can double the fee for a permit after the fact (never applied before construction). But that would be in the selectboard's fee schedule.

Commented [KR307R306]: Recourse would be through a notice of violation, which would admittedly be short lived as the permit will become effective shortly thereafter. The bigger deterrent is that if an appeal comes in after construction begins and the appeal is validated by a court of law, all of the work could be required to be removed and restored - risky decision.

Section 1106: ~~Completion Deadlines and~~ Permit Expiration & Extensions

All activities as authorized by the issuance of the permit shall commence within ~~t~~Twelve (12) months of the ~~e~~Effective ~~d~~Date; and be substantially ~~c~~Complete within ~~t~~Twenty ~~f~~Four (24) months, or the permit shall ~~become null and void~~expire.

1. The Owner/Agent, at least Forty Five (45) days prior to the Expiration Dates of the initial permit, may ~~submit a written request~~apply for a **Permit Extension**, accompanied by the Clerk's recording fee. The extension request must include a reasonable explanation why the project was not completed as required in this Section, and specify the additional time requested. The Zoning Administrator's decision to grant the request on acceptable grounds for the extension, or to deny the request, will be issued within Thirty (30) days following receipt.
2. The Zoning Administrator may issue one (1) extension to a permit's completion deadline, for up to one (1) additional year.
3. If an extension is not granted, or if preferred, the Owner/Applicant must reapply and obtain another zoning permit, with the full application fee(s) required, to complete the activities as initiated under the original permit.

Commented [SS308]: What are review criteria? Usually a formality; but must include some criteria under which an application will be approved.

Commented [KR309R308]: E.g. economic hardship, staffing shortages, material shortages, etc.

Section 1107: Certificates of Occupancy (C.O.):

Occupancy of any land or structure or part thereof created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure **shall be permitted only after:**

1. **The Owner(s), Applicant, or authorized Agent submits the C.O Request Form to the ZA, attesting that the completed project is in full compliance with the applicable Permit and Zoning regulations.** The Request Form shall include copies of all VT & Town required permits or inspections required of the C.O.
2. The ZA shall either grant or deny the C.O., Request Form within ~~30~~29 days of its receipt, ~~or the C.O. shall be deemed issued on the 30th day.~~
3. If a C.O. cannot be issued, notice will be sent to the Owner of record, and copied to any Applicants or Agents identified.
4. ~~The C.O. Request Form and applicable Statute 24 VSA Ch. 117 Section 4449 references are on Attachment "E" of these regulations. (References: 30 VSA Section 51(f) for Residential Building Energy Standards~~

Commented [KR310]: Must comply with 24 vsa 4448(d) - act with regard to a complete application for a permit within 30 days. Should be 30 days

Commented [KR311]: We recommend removing this "deemed issued" (deemed approval) language. - Deemed approval is an equitable remedy that can only be enforced by the environmental division of the superior court. Therefore, we recommend removing this clause and any other references to "deemed approval" or "deemed Issued" since it is not an automatic act as is implied - 24 V.S.A. 4448(d), "If the administrative officer fails to act with regard to a complete application for a permit within 30 days, whether by issuing a decision or by making a referral to the appropriate municipal panel, a permit shall be deemed issued on the 31st day"

You could still say the ZA must decide in 30 days, but we recommend you refrain from saying it is deemed approved on the 31st, only a judge can determine that.

~~certification, and 24 VSA Section 4303 Definitions, including but not limited to Paragraphs (8) "Flood Hazard Areas", and Paragraph (11) Municipal Land Use Permit" with sub-paragraphs (A, B, & D). (Refer to Addendums for and C.O Form)~~

A Zoning violation may be issued for failure to comply.

Commented [KR312]: Clarity - unclear what is intended here.

Commented [SS313]: Unclear. For what? Failure to get CO?

Commented [KR314R313]: If for failure to get CO that is implied.

Section 1108: Violations and Enforcement

The commencement or continuation of any land development (or subdivision) that does not meet-comply with the requirements of these regulations shall constitute a violation. All violations shall be pursued in accordance with Act [§§4451, 4452]. Each day that a violation continues shall constitute a separate offense. The Zoning Administrator shall institute, in the name of the Town of West Rutland, any appropriate action, injunction or other proceeding to enforce the provisions of these regulations. All fines imposed and collected shall be paid to the municipality.

Section 1109: Notice of Violation

No action may be brought under this section unless the alleged offender has had at least seven (7) days warning notice by certified mail that a violation exists, as required under the Act [§4451]. The notice of violation also shall be recorded in the land records of the municipality under Section 1406. The notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven (7) day notice period, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven (7) days. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the regulations after the seven (7) day period and within the next succeeding twelve (12) months.

Commented [KR315]: superfluous

Limitations on Enforcement

An action, injunction or other enforcement proceeding relating to the failure to obtain or comply with the terms and conditions of any required or duly recorded municipal land use permit may be instituted against the alleged offender if the action, injunction or other enforcement proceeding is instituted within 15 days years from the date the alleged violation first occurred, and not thereafter, in accordance with the Act [§4454]. The burden of proving the date the alleged violation first occurred shall be on the period against whom the enforcement action is instituted. No enforcement proceeding may be instituted to enforce an alleged violation of a municipal land use permit unless the permit or a notice of the permit has been recorded in the land records of the municipality under Section 1406.

Commented [SS316]: Is this Section 1110? Or part of existing NOV above? Use consistent header or subheading.

Commented [KR317]: Misstatement of law - 24 vsa 4454
Speaks of a 15-year statute of limitations, not 15 day. "An action, injunction, or other enforcement proceeding relating to the failure to obtain or comply with the terms and conditions of any required municipal land use permit may be . . . instituted within 15 years from the date the alleged violation first occurred and not thereafter."

Section 1110: Exclusivity of Remedy

The exclusive remedy of an interested person with respect to any decision or act of the Zoning Administrator, or any failure to act with respect to any one or more of the provisions of this regulation shall be the appeal to the Development Review Board. (See 24 VSA 117, Section 4472 [for exact language.](#))

Section 1111: Special Duties Relating to Flood [Overlay](#) District Permits

1. The Zoning Administrator shall, to the extent possible, submit to the Federal Emergency Management Administration the information required by the Federal Emergency Management Administration Report Form with respect to the administration and enforcement of the flood hazard area sections of this bylaw. A copy of the Report shall be submitted to the State-coordinating agency.
2. The Zoning Administrator shall maintain a record of:
 - a) All variance actions, including justification for their issuance;
 - b) All permits issued for development in areas of special flood hazard;
 - c) The elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings;
 - d) The elevation, in relation to mean sea level, to which buildings have been flood proofed, and
 - e) All flood-proofing certifications required under this regulation.

Commented [SS318]: Recommend moving this to review criteria section. Misplaced and doesn't fit. Could be specific standards for flood overlay, near CU criteria.

ARTICLE XII: Development Review Board (DRB)

~~Section 1200 Creation of Development Review Board:~~

~~The Town may make such appropriations in its annual budget as are sufficient to afford the Development Review Board the technical and material assistance necessary to fulfill its duties as outlined herein.~~

Commented [SS319]: Statute grants this; unnecessary in zoning regulations.

Section 1201: Members:

The Development Review Board shall consist of ~~no less than five (5)~~three (3), and not more than seven (7) Members, ~~unless otherwise as~~ determined by the Select Board.

Commented [SS320]: Statute allows SB to set membership between 3-9 members so zoning regulations can't limit SB here.

Section 1202: Application, Appointment, Term, and Removal of Members

1. ~~Application.~~
2. Appointment: Members of the Board shall be appointed and any vacancy filled by the Select Board. The terms of each member shall be for a maximum of three (3) years, unless otherwise determined by the Select Board. Members may be re-appointed to successive terms. The Select Board may appoint alternates to serve on the Board.

Commented [SS321]: Add content or delete.

3. Removal: Any member of the Development Review Board may be removed for cause by the Select Board upon written charges and after public hearing.

Section 1203: Officers of the Board

The Development Review Board shall annually elect its own officers: Chair and Vice Chair. The officers of the Board may administer oaths ~~and compel the attendance of witnesses and the production of material pertinent to any issue under appeal.~~

Commented [SS322]: Must elect a clerk. Reference to secretary so add that position or delete those references.

Commented [SS323]: No authority? Cannot compel witnesses; not a court.

Section 1204: Meetings and Public Hearings

1. Every ~~request-application~~ to the Development Review Board shall be filed with the Zoning Administrator in accordance with the appropriate provisions of the Zoning Regulations of the municipality.
2. Meetings of the Development Review Board shall be held at the call of the Chair and at such times as the Board may determine. All such meetings shall be publicly warned, ~~except as otherwise provided by law.~~

Commented [SS324]: No exception exists once it is a meeting.

Section 1205: Rules of Procedure

The Board shall adopt Rules of Procedure and Rules of Ethics with respect to conflicts of interest to guide its official conduct, as required under the Act [§4461(a)] and Vermont's Open Meeting Law.

Section 1206: Minutes ~~and Findings~~

The Board shall keep ~~m~~Minutes of its proceedings, ~~indicating the vote of each member upon each question or, if absent or failing to vote, indicating this, and shall keep records of its examinations and other official actions, all of which shall be immediately filled in the office of the Clerk of the Municipality as a public record which must comply with the Open Meeting Law and Public Records Act.~~

Commented [SS325]: Findings belong in decision.

Section 1207: Quorum and Votes

For the conduct of any hearing and the taking of any action, a ~~guorum~~quorum shall be not less than a majority of the members of the Board and any action thereof shall be taken by the concurrence of a majority of the members of the Board.

Section 1208: General Powers and Duties of the Board

1. **General Powers:** The Development Review Board is a body with limited powers. Except as specifically provided herein and in accordance with the provisions of 24 VSA, Chapter 117, the Development Review Board may not amend, alter, invalidate, or affect any plan or bylaw of the Town or the implementation or enforcement thereof, ~~nor~~ allow any use not permitted by the Zoning Regulations or any other bylaw.

2. General Duties: The Development Review Board shall be charged with the proper interpretation of the Zoning Regulations and their ~~consequent~~ consistent application within the Town, and with the administration of the procedures allocated to it by the Zoning Regulation, including the following:

- a. To hear and rule on appeals of any order, requirement, decision or determination made by the Administrative Officer in the administration and enforcement of the Zoning Regulations.
- b. To hear and grant or deny a request for a variance or waiver in the application of provisions of the Zoning Regulations in accordance with Sections 404(K), 1208, 1209, 1210, and 1211.
- c. To approve the repair, relocation, replacement or enlargement of a non-conforming structure within the Flood Hazard District.
- d. To hear, review and decide, after due public notice and hearing, all matters referred to it or upon which it is required to pass according to the Zoning Regulations.

Commented [SS326]: What about conditional use and site plan review applications?

Section 1209: Variances – General

The Development Review Board shall hear and decide requests for variances as required by the Act [§4469(a)] and appeal procedures under Section 1213. In granting a variance, the Board may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of these regulations and the municipal plan currently in effect. The Board may grant a variance and render a decision in favor of the ~~appellant~~ applicant only if all of the following facts are found, and the findings are specified in its written decision:

1. That as a result of such physical problems, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
2. That such unnecessary hardship has not been created by the appellant.
3. That the variance, if authorized, represents the minimum that will afford relief and provide the least modification possible of the Zoning Regulations and of the comprehensive plan.

Commented [KR327]: Should be 5 parts and the language should align with 24 v.s.a. 4465(a)1-4 - [Vermont Laws](#).

(1) There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions, and not the circumstances or conditions generally created by the provisions of the bylaw in the neighborhood or district in which the property is located.

(2) Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the bylaw, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

(3) Unnecessary hardship has not been created by the appellant.

(4) 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, or be detrimental to the public welfare.

(5) The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan.

Commented [SS328]: Recommend moving to other review criteria sections (CU, site plan, special review criteria for specific types or uses, flood, etc) so they are all together. Misplaced and hard to find.

Commented [KR329R328]: Agreed, although the DRB reviews for variances, their criteria doesn't belong in this administrative section about the board.

Commented [SS330]: Move to criteria section. Misplaced.

Section 1210: Variances In Special Zoning Districts: Flood Hazard, Ridgeline Protection, Water Source Protection:

On an appeal where a variance from the provisions of the Zoning Regulation is requested for the repair, relocation, replacement or enlargement of a non-conforming structure within a regulated flood hazard area, the Development Review Board may grant such variances, and render a decision in favor of the ~~appellant~~ applicant, in accordance with the provision of Section VII of Attachment – West Rutland Flood Hazard Regulations.

Section 1211: Conditional Uses – Flood Hazard District

In all flood hazard areas (i.e., numbered and unnumbered A Zones) the Development Review Board shall require, as a condition of approval, that:

1. All development meets the requirements of Attachment A – West Rutland Flood Hazard Regulations.

Section 1212: Notifications – Flood Hazard District

For approved variances and non-complying uses, the Secretary of the Development Review Board shall notify the applicant and include on the permit a notation that:

1. The structure as located below the base flood elevation will result in increased premium rates for flood insurance and increases the risk of life and property; and
2. The structure as located in a regulated flood hazard area, does not conform to the bylaws pertaining thereto, and will be maintained at the risk of the owner.

A copy of the permit shall be affixed to the copy of the deed of the concerned property on file in the Municipal Clerk's office.

See also Attachment A, Section VII and VIII.

1. **Renewable Energy Resource Structure:** On an appeal where a variance from the provisions of the Zoning Regulation is requested for a structure that is primarily a renewable energy resource structure, the Board may grant such variances, and render a decision in favor of the appellant if all of the following facts are found and the finding is specified in its decision:

- a. It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with the Regulations, and
- b. That the hardship was not created by the appellant; and 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
- c. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the Zoning Regulation and from the Plan.
- d. In rendering a decision in favor of an appellant under this Section, the Development Review Board may attach such conditions to the variance as it considers necessary and appropriate under the circumstances to implement the various purposes of these Regulations and the Town Plan then in effect.

Section 1213: Appeals to the Board and Time for Filing:

An interested person as defined under the Act [§4465] may appeal a decision or the act of the Zoning Administrator, by filing a notice of appeal with the Secretary of the Development Review Board, or with the Clerk of Town if no such

Commented [SS331]: Move to criteria section. Misplaced.

Commented [SS332]: Not listed as required officer.

Commented [KR333R332]: Zoning administrator?

Commented [KR334]: "may"

Commented [KR335]: If a variance has been approved then they do conform to the bylaws - revise statement - maybe try "does not meet the standards" or "has been granted a variance from these regulations."

Commented [SS336]: Why? Follow recording requirements in statute. Can't require town clerk to alter recorded documents or record in specific way.

Commented [KR337R336]: No authority

Commented [KR338]: Why signs (article VIII)?

Commented [KR339]: For a variance, it must be at minimum the same standard as statute (24 v.s.a. 4469(a)) - could be more stringent theoretically but the variance standard is already quite a high bar. I would recommend removing this provision altogether and having a variance for renewable energy resources be reviewed as any other structure would. They will often be exempt anyhow so this provision would rarely apply as is.

secretary has been elected. Such Notice of Appeal must be filed within fifteen (15) days of the date of such decision or act, and a copy of the notice shall be filed with such officer.

An appeal may be rejected by the Board without a hearing if the Board considers that the issues raised were decided in an earlier Appeal, or that the facts are materially or substantially the same facts by or on behalf of the appellant. A decision **to reject the appeal** shall be made within ten (10) days of the filing of the Notice and include Findings of Fact (See Section 1212). For the purposes of Section 1215, this decision shall constitute a decision of the Board.

Commented [KR340]: Clarify that you are only referring to the decision to reject the appeal (e.g. not have a hearing) and not the ultimate decision on the appeal hearing.

Interested Persons:

The definition of an interested person under the Act [§4465(b)] includes the following:

1. A person owning title to the property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case;
2. The Town of West Rutland or any 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 Regulations, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not in accord with the policies, purposes or terms of the plan or bylaw of that municipality;
4. Any ten (10) voters or property owners within the municipality who, by signed petition to the Development Review Board, allege that any relief requested by a person under this section, if granted, will not be in compliance with the policies, purposes or terms of the Plan or Regulations **of the municipality**, and;
5. Any department or administrative subdivision of the State owning property or any interest therein within the municipality or adjoining municipality, and the Vermont Agency of Commerce and Community Development.

Commented [KR341]: Add the following language to the end of 1213(4) to conform this language with 4465: "This petition to the appropriate municipal panel must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal"

Section 1214: Notice of Appeal:

Any Notice of Appeal, of a decision of the Zoning Administrator, shall be filed in writing with the Secretary of the Board on forms provided by him/her, which shall include:

1. The name and address of the appellant;
2. A brief description of the property with respect to which the appeal is made;
3. A reference to the regulatory provisions applicable to that appeal;
4. The relief requested by the appellant, including any request for a variance from one or more provisions of these Regulations;
5. The alleged grounds why such requested relief is believed appropriate under the circumstances.

Section 1215: Hearing on Appeals:

The Development Review Board shall hold a public hearing on ~~a Notice of an appeal~~ Appeal under these Regulations, which shall be within sixty (60) days of the filing of the ~~n~~Notice of such appeal in accordance with Section 1213(1).

Commented [SS342]: Hearing on the appeal, not on the notice.

The Board will give public notice of the hearing as described in Section 1413, and shall mail to the appellant a copy of such notice at least fifteen (15) days prior to the hearing date.

Any interested person as defined in Section 1414C may appear in person and be heard, or be represented by an agent or attorney at such hearing.

Any hearing held under this Section may be adjourned by the Board from time to time, provided, however, that the date and place of the adjourning hearing shall be announced at that time.

All hearings held under this Section shall be open to the public, ~~and the rules of evidence applicable at such hearings shall be the same as the rules of evidence applicable in contested cases in hearing before administrative agencies as set forth in 3 V.S.A. Section 10.~~

Commented [KR343]: Incorrect citation - do you mean 24 v.s.a. 1206?

Commented [SS344R343]: Why use rules of evidence at all? Just use Rules of Procedure.

Commented [KR345R343]: Rules of evidence too onerous for non-legal board

Section 1216: Decision on Appeals:

The Development Review Board shall render its decisions on each appeal, which shall include written Findings of Fact, within forty-five (45) days after completing the final hearing and, within that period, send to the appellant, by certified mail, a copy of that decision.

Copies of the decision shall also be mailed to every person or body appearing and having been heard at the hearing, and filed with the Zoning Administrator and the Clerk of the municipality as a part of the public records.

~~Failure of the Board to issue a decision within the 45-day period shall be deemed approval and shall be effective on the 46th day.~~

Commented [KR346]: Deemed issued (deemed approval) is an equitable remedy that can only be enforced by a environmental division of the superior court. Therefore, we recommend removing this clause and any other references to "deemed approval" since it is not automatic as is implied - 24 V.S.A. 4464(b)(1), "The panel shall adjourn the hearing and issue a decision within 45 days after the adjournment of the hearing, and *failure of the panel to issue a decision within this period shall be deemed approval and shall be effective on the 46th day.*"

You could say the Board must decide in 45 days, but we recommend you refrain from saying it is deemed approved on the 46th, only a judge can determine that.

Commented [SS347]: These (1214-1216) should all be one section and merged with 1213. Have A), B), etc.

Commented [KR348R347]: E.g. 1213 Appeals to the Board
1. Notice of Appeal:
2. Hearing on Appeals:
3. etc.

Section 1217: Appeals from Decisions of the Board:

In accordance with the Act [§4471], an interested person who has participated in a regulatory proceeding of the ~~Planning Commission or~~ Development Review Board may appeal a decision rendered by either Board, within thirty (30) days of such decision, to the Vermont ~~Environmental Court~~ Superior Court Environmental Division. Appeals to the Environmental Court shall also meet the following requirements:

1. "Participation" in a ~~Planning Commission or~~ Development Review Board proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.
2. The ~~Notice of Appeal~~ decision shall be filed by certified mail, with fees, to the Vermont Superior Court Environmental Court Division and by mailing a copy to the Municipal Clerk, or the Zoning Administrator if so designated, who shall supply a list of the interested persons (including the applicant if not the

appellant), to the appellant within five (5) working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the Notice of Appeal to every interested person. If any one or more of those persons are not then parties to the Appeal, upon motion they shall be granted leave by the court to intervene.

ARTICLE XIII: PLANNING COMMISSION

Section 1301: Continuation of the Planning Commission

There shall be a Planning Commission for the municipality. The Planning Commission shall consist of not less than three (3) or more than nine (9) members appointed by the Legislative Body in accordance with the Act [§§4321–4323]. At least a majority of members shall be residents of the municipality. Any member of the Commission may be removed at any time by a unanimous vote of the Legislative Body.

Section 1302: General Review of the Zoning Regulation

The Planning Commission shall carry on a continuous review of the zoning regulation and initiate proposals for amendment as required. As part of the accomplishment of its duties, the Planning Commission shall maintain complete records of its proceedings, studies and recommendations, as well as keep the Select board informed on the current status of the Zoning Regulations and their effectiveness within the Town.

Section 1303: Review of Zoning Amendments

The Planning Commission shall receive and evaluate proposals for amendment of the Zoning Regulations, hold public hearings on such amendments after due public notice as required in Section 1405, and make recommendations to the Select board with respect to such amendments.

Section 1304: Site Plan Review: ~~The Development Review Board shall conduct site plan reviews for any Use or Structure; Except for the following conforming activities. The Zoning Administrator is authorized to approve applications for:~~

- ~~1. New One and two family dwellings.~~
- ~~2. Changes to existing multi-family housing with four (4) or less dwelling units.~~
- ~~3. Accessory structures and dwelling units or Accessory Uses.~~
- ~~4. Signs~~
- ~~5. Fill, excavation, or removal of less than 200 cu. yards of clean earthen materials on a parcel within a two year period (also refer to Sections 1016 & 1024).~~

Section 1305: Advisory Counsel to Other Agencies

Upon request, the Planning Commission shall serve as guide and counsel to the Select board of the Town, the Zoning Administrator, the Development Review Board, and other public offices in matters relative to the Zoning Regulations.

Commented [KR349]: Misplaced section - does not belong under Planning Commission and already covered in Article IX - delete.

Formatted: Indent: Hanging: 0.5", No bullets or numbering

Section 1306: General Rules of Procedure

~~No meeting or hearing in any way affecting the zoning ordinance may be held by the Development Review Board without the attendance of a majority of the Commission members; neither may any official action be taken with respect to the Zoning Regulations without the concurrence of a majority of the Commission members.~~

The Planning Commission shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under the Act [§4461(a)] and Vermont's Open Meeting Law.

Commented [SS350]: Anyone can submit proposals of amendment, including the DRB. Why limit them from holding a meeting on potential proposals of amendment without PC attending? PC should want feedback from DRB to ensure clear regulations. Can hold joint meetings with DRB/PC but shouldn't restrict DRB work in this way.

ARTICLE XIV: Other Provisions

Section 1401: Penalties for Violation

Any person who violates these Zoning Regulations shall be fined not more than one hundred dollars (100) per day for each offense after seven days warning notice by certified mail in accordance with the provisions of ~~the Act~~ Section [§4451] of the Act.

Commented [SS351]: Misplaced section, move to Article XI enforcement.

Commented [KR352]: consistency

Section 1402: Interpretation of Regulation

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

Commented [SS353]: Move to beginning of document with general information about the regs.

Section 1403: Notice of Public Hearings

In accordance with the Act [§4464], a warned public hearing shall be required for conditional use review, appeals of decisions of the administrative officer and variances and final subdivision review. Any public notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all of the following:

1. Publication of the date, place and purpose of the hearing in a newspaper of general circulation in the municipality;
2. Posting of the same information in three (3) or more public places within the municipality, including the posting of a notice within view from the public right-of-way nearest to the property for which the application is being made;

Commented [SS354]: Misplaced section. Move to an application/hearing/decision section near review criteria info.

3. Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal; and

4. ~~For hearings on subdivision plats located within 500 feet of a municipal boundary, written notification to the clerk of the adjoining municipality.~~

Commented [SS355]: Move to subdivision regulations.

- 5-4. Public notice for site plan review shall be given not less than seven days prior to the date of the public hearing, and shall include at a minimum the following:

- a) Posting of date, time, and places within the municipality, and;
- b) Written notification to the applicant and to the owners of all properties. notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

Commented [KR356]: This provision runs contrary to much of this section - only 7 days, no newspaper notice, 4464(a)(2). I would recommend breaking Section 1403 into 2 subsections; warned *hearings* under 4464(a)(1) (e.g. CU, Variance, Appeal, etc.); and other *meetings* under 4464(a)(2) (e.g. site plan). You could use different terminology if you wish but I recommend outlining in separate subsections the procedures for each. Subsection 6 and 7 below are applicable in either circumstance.

- 6-5. The applicant shall be required to bear the cost of public warning and the cost and responsibility of notifying adjoining landowners as required above, as determined from the current municipal grand list. The applicant may be required to demonstrate proof of delivery to adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service.

- 7-6. No defect in the form or substance of any required public notice under this section shall invalidate the action of the Development Review Board where reasonable efforts have been made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the Development Review Board or the Environmental Court, the action shall be remanded to the Board to provide new posting and notice, hold a new hearing, and take a new action.

Section 1404: Hearings

In accordance with the Act [§4461], all meetings and hearings of the Development Review Board and, except for deliberative sessions, shall be open to the public. For the conduct of any hearing, and the taking of any action, a quorum shall be not less than the majority of members of the Development Review Board ~~and~~. The Development Review Board, in conjunction with any hearing under this bylaw, may:

Commented [SS357]: Misplaced section. Move to an application/hearing/decision section near review criteria info.

1. Examine or caused to be examined any property, maps, books, or records bearing upon the matters concerned in that proceeding;

2. ~~Require the attendance of any person having knowledge in the premises;~~

Commented [SS358]: No authority to compel witnesses; not a court.

- ~~3-2.~~ Take testimony and require proof material for its information; and
~~4-3.~~ Administer oaths or take acknowledgement in respect of those matters.

Commented [SS359]: Recommend deleting and referring to DRB Rules of Procedure.

In any public hearing there shall be an opportunity for each person wishing to achieve status as an interested person to demonstrate that the criteria set forth under Section 1213 are met. The Development Review Board shall keep a record of the name, address, and participation of each of these persons.

In accordance with the Act [§§4464(b), 4468], the Development Review Board ~~or Development Review Board~~ may recess a hearing on any application or appeal pending the submission of additional information, provided that the next hearing date and place is announced at the hearing.

Section 1405: Decisions

Commented [SS360]: Misplaced section. Move to an application/hearing/decision section near review criteria info.

Any action or decision of the Development Review Board shall be taken by the concurrence of a majority of the members of the ~~Commission~~ Board. In accordance with the Act [§4464(b)], the Development Review Board shall issue a decision within 45 days after the adjournment of the hearing. ~~Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective the 46th day. In addition:~~

All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on evidence of the record. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals may be taken under Article XII. The minutes of a meeting may suffice, provided that the factual basis and conclusions relating to the review standards are provided in accordance with these requirements.

In rendering a decision in favor of the applicant, the Development Review Board may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of the Act, these regulations, and the municipal plan ~~currently in effect~~. This may include, as a condition of approval:

- a) the submission of a three-year performance bond, escrow account, or other form or surety acceptable to the ~~West Rutland Legislative Body~~, which may be extended for an additional three-year period with the consent of the owner, to assure the completion of a project, adequate stabilization, or protection of public facilities that may be affected by a project; and/or
- b) a requirement that no zoning permit be issued for an approved development until required improvements have been satisfactorily installed in accordance with the conditions of approval.

All decisions of a Development Review Board shall be sent by certified mail, within the required 45-day period, to the applicant or the appellant on matters of appeal. Copies of the decision also shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Zoning Administrator and Clerk as part of the public record of the municipality.

Section 1406: Recording Requirements

Within thirty (30) days of a municipal land use permit, [Development Review Board decision](#), or notice of violation, the Administrative Officer shall deliver either the original, a legible copy, or a notice of the permit, [decision](#), or violation to the Municipal Clerk for recording in the land records of the municipality generally as provided in 24 VSA §1154(c), and file a copy in the municipal office in a location where all municipal land use permits shall be kept, as required under the Act [§4449(c)]. The applicant may be charged for the cost of the recording fees.

Commented [KR361]: Include reference to DRB decisions as well - see [24 v.s.a. 4464\(d\)\(1\)](#) . . . "a copy of the decision shall be filed with the administrative officer and the clerk of the municipality as a part of the public records of the municipality."

Section 1407: Fees

Fees are to be established by the Select Board for the costs of the Administrative Officer, the Development Review Board and the Planning Commission.

Section 1408: Amendments

Any provision of this Regulation, as well as the boundaries of the various zoning districts established herein, may be amended or repealed subject to the provisions of Sections 4441 and 4442 of Chapter 117 of Title 24 of the Vermont Statutes Annotated which are summarized below.

Commented [SS362]: This section is unnecessarily long. I'd keep a bit of context but refer to statute since it's not adding anything.

An Amendment may be prepared by the Planning Commission or by any other person or body.

A proposed amendment prepared by someone other than the Planning Commission shall be submitted in writing along with any supporting documents to the Planning Commission. The Planning Commission may then proceed as if they had prepared the amendment or repeal. However, if the proposed amendment or repeal of a bylaw is supported by a petition signed by not less than five (5) percent of the voters of the municipality, the Commission shall correct any technical deficiency and shall, without otherwise changing the amendment or repeal, promptly proceed as if it had been prepared by the Commission.

When considering an amendment the Planning Commission shall prepare a written report on the proposal. The report shall cover the issues detailed in 24 VSA §4441(c).

The Planning Commission shall hold at least one (1) public hearing within the Town after public notice.

At least fifteen (15) days prior to the first hearing, a copy of the proposed amendment and the written report shall be delivered with proof of receipt, or mailed by Certified Mail, Return Receipt Requested, to:

The Chair of the Planning Commission of each abutting municipality, or in the absence of any Planning Commission in a municipality, to the Clerk of that abutting municipality;

The Executive Director of the Rutland Regional Planning Commission; and the Department of Housing and Community Affairs within the Agency of Commerce and Community Development.

Any of the foregoing, or their representatives may subject comments on the proposed amendment to the Planning Commission, or may appear and be heard in any proceeding with respect to the adoption of the proposed amendment. The Planning Commission may make revisions to a proposed amendment and to the written report, and shall submit the proposed amendment and the written report to the Select Board.

However, if requested by the Select Board or if a proposed amendment was supported by a petition, the Planning Commission shall promptly submit the amendment, with changes only to correct technical deficiencies, to the Select Board together with any recommendation or option it considers appropriate. Simultaneously, with the submission, the Planning Commission shall file with the Clerk of the municipality a copy of the proposed amendment for public review.

Not less than fifteen (15) nor more than one hundred twenty (120) days after a proposed amendment is submitted to the Select Board they shall hold the first of one or more public hearings, after public notice, on the proposed amendment and shall make copies of the proposal and any written report of the Planning Commission available to the public upon request. Failure to hold a hearing within the one hundred twenty (120) days shall not invalidate the adoption of the amendment.

The Select Board may make minor changes to the proposed bylaw, amendment, or repeal, but shall not do so less than fourteen (14) days prior to the final public hearing. If the Select Board at any time makes substantial changes in the concept, meaning or extent of the proposed bylaw, amendment, or repeal, it shall warn a new public hearing or hearings. If any part of the proposal is changed, the legislative body at least ten (10) days prior to the hearing shall file a copy of the changed proposal with the Clerk of the municipality and with the Planning Commission. The Planning Commission shall amend the report prepared pursuant to sub-section 4441(c) of this title to reflect the changes made by the legislative body and shall submit that amended report to the legislative body at or prior to the public hearing.

A proposed bylaw or amendment shall be adopted or rejected by the vote of the Town Select Board at the next regular or special meeting duly warned and held

after the final public hearing. The adoption or rejection shall be effective twenty-one (21) days after adoption.

Notwithstanding, sub-section 10 of this section, a vote by the legislative body on a bylaw, amendment or repeal shall not take effective if five percent (5%) of the voters of the municipality petition for a meeting of the municipality to consider the bylaw, amendment or repeal, and the petition is filed within twenty (20) days of the vote. In that case, a meeting of the municipality shall be duly warned for the purpose of acting by Australian Ballot upon the bylaw, amendment or repeal.

If the proposed amendment is not approved or rejected within one (1) year of the date of the final hearing of the Planning Commission, it shall be considered disapproved unless five (5) percent of the voters of the municipality petition for a meeting of the Town to consider the amendment, and the petition is filed within sixty (60) days of the end of that year. In that case, a meeting of the Town shall be duly warned for the purpose of acting upon the amendment by Australian Ballot.

Commented [KR363]: Per Susan's previous comment, I would remove the highlighted language. This all laid out in the sections of law noted in the first paragraph and is otherwise unnecessarily wordy.

Section 1409: Severability:

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

Section 1410: Effective Date

This Regulation shall take effect upon approval in accordance with the voting and other procedures contained in Section 4442 of VSA 117.

Section 1411: Precedence of Regulation

The provisions of this regulation shall take precedence over any conflicting and less restrictive local laws. This regulation amends all preceding Zoning Regulations for the Town of West Rutland.

Commented [SS364]: Recommend moving these to the beginning before zoning district descriptions.

Commented [KR365R364]: Agreed - integral baseline provisions

ARTICLE XV: DEFINITIONS

Except where specifically defined herein, all words used in these regulations shall carry their customary meanings. Words used in the present tense include the future, and the singular includes the plural. The word "lot" includes "plot"; the word "building" includes "structure"; the word "shall" is mandatory; the words "occupied" or "used" shall be considered as though followed by "or intended, arranged, or designed to be used or occupied"; the word "person" includes "individual, partnership, association, corporation, company or organization". (References to other Sections of the Zoning Regulations may be attached to a Definition.)

Commented [SS366]: Merge all definitions in entire document to this Article. Use subheadings where the definitions only apply to certain uses, overlays, etc. Be sure all definitions are used consistently throughout document, and contain all important terms in bylaws otherwise court looks to plain meaning/dictionary definition.

Accessory Building. A detached building or structure subordinate to and customarily incidental to a permitted principal building or structure located on the same lot or on an adjoining lot under the same ownership or Planned Unit Development designation. (See Sections 1016, 1010)

Accessory Dwelling Unit. A single residential Use constructed within or attached to an owner-occupied single family residence (SFR) or appurtenant accessory structure. Certain qualifying restrictions, as well as certain exemptions to other zoning sections may apply. (see definition; Apartment, Dwelling Unit; see Section 1017)

Commented [KR367]: Consider incorporating the statutory language from 24 v.s.a. 4412(1)(E) - "distinct unit that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation"

Accessory Use. A use of land, buildings or structures subordinate to and customarily incidental to a permitted principal use located on the same lot, or on an adjoining lot under the same ownership or Planned Unit Development designation.

Agricultural Use. Land whose use conforms to VT's Agricultural Act, and is used for raising livestock, agricultural or forest products, including qualified farm structures and storage of agricultural equipment and crops. This definition includes the sale of agricultural products raised on the same property.

Agricultural Structure. A structure used for accepted or required agricultural practices. (refer to 10 VSA Cp. 117 Sections 1021,1259, & 6VSA Sec. 4810)

Alteration. Any exterior structural change which results in the changing the front, side or rear setbacks; any interior structural change for the purpose of changing use; any change of location of, or addition to, a building other than repairs or modification to a building or equipment.

Animal Housing Facility, Pet Store, Kennel. An establishment housing dogs, cats, birds, or other domestic pets, large and small, and where grooming, breeding, boarding, training, or selling of animals is conducted as a business.

Apartment. One or more residential Dwelling Units (see definition), not occupied by the property Owner, possibly including more than one building, typically occupied by tenants for longer than a 30 day period.

Commented [KR368]: Unnecessary - apartments would be covered by either the ADU or multi-family dwelling provisions depending on whether landowner lives on the property.

Assisted Living Home (*See Nursing Home*)

Associations/Lodges and Clubs. An organization of persons having common interests, purposes etc.

Attic. The part of a building directly under the roof with a headroom of less than 5.5 ft. over three quarters of the floor area. The headroom shall be measured vertically from the top of the floor or floor beams to the bottom or underside of the roof or roof rafters. The floor area shall be measured horizontally from the inside of the exterior walls or underside of the roof or roof rafters at the floor level. The attic generally would not be finished or insulated and would not be occupied or used as living area (storage only).

Auto Service Station. Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune-ups, inspections, lubrication, minor repairs, and carburetor cleaning are conducted. Service stations shall not include heavy vehicle maintenance activities such as

truck repairs (with GVW rating over 18000 GVW), or regular Vehicle painting, body or frame repairs.

Basement. Any area of the building having its floor sub grade (below ground level) on **all** sides. Use of a Basement for dwelling purposes may be prohibited in certain situations. *Refer to Section 1019.*

Bar/Tavern. A place of business where the primary function is the serving of alcoholic beverages. The Use may be permitted with other Uses. (*see Night Club, Restaurant, Lodge*)

Bed and Breakfast.(aka AirB&B). A structure, residential in nature, that has overnight lodging facilities for temporary and transitory guests, and where the only (optional) meal served to guests is breakfast.

Brewery; also Cidery, Distillery, Winery. A commercial or business facility to process ingredients into an alcoholic beverage or product; including the storing, canning or bottling, and retail or wholesale sale of the products produced by the facility.

Building. Structure having a roof (including an awning or other similar covering, whether or not permanent in nature) supported by columns or walls and intended for the shelter or enclosure of persons, animals or chattel.

Building, Principal: The main building or structure (not always the largest) in which the primary permitted use by right occurs on a single lot or parcel, and may include an attached garage or porch.

Building Area. Total of areas taken on a horizontal plane at the finished grade, measured along the maximum exterior perimeter of the structure(s), excluding eaves, including the principal building and all accessory structures (including decks & swim pools; but excluding masonry patios or walls and fences).

Building Height. Vertical distance measured from the highest elevation of the structure's ridgeline to the average proposed finished grade of the building, excluding customary chimneys and antennas, church steeples, and cupolas. Building height provisions shall not apply to qualified agriculture structures

Business. A legally permitted occupant of land or premises engaged in a commercial, industrial, or professional activity. A business may be a for-profit, not-for-profit (ex: Credit Union), non-profit (ex. Charity), or for social purposes in which profits are invested into the Community (ex. Goodwill Store).

Camp. A building suitable for seasonal or temporary living purposes and never to be occupied for more than six (6) months in any twelve (12) month period and not more than 21 continuous days, if without legally permitted sewage disposal and water supply facilities.

Camper. See Trailer

Camp- Daytime: An organized program of daily activities, usually designed for school-aged children, centered on a specific theme or group, offered in a community setting, with the participants returning to their homes in the evening.

Camp- Overnight or Specialty: A recreational or educational institution,

providing facilities for out-of-doors activities (such as sports) and/or indoor activities, (such as arts & crafts or technical training) where the participants may stay on the Camp's premises overnight or longer.

Camping Trailer Park (Campground). A private or public facility with more than two spaces, with or without electrical, water and sewer hookups, for the temporary use of tents, travel trailers and recreational vehicles, wheel mounted "tiny houses", and similar mobile types of shelters. *Also refer to Section 1012.*

Cemetery, Mausoleum. Land or structure used for the burial or interment of remains of deceased people or animals. A **Commercial cemetery** is open for use by a community of people or open to the public and pets, in which space is purchased or leased for a fee. A **Family cemetery** is a private burial ground or structure where no space is sold or leased, and use is restricted to a group of persons or their beloved pets, related to each other by genetic history or marriage. Commercial & private facilities are subject to VT & local regulations.

Certificate of Occupancy. An approval document issued by the Administrative Officer allowing occupancy or use of a building, structure or land and premises, after it has been determined that all requirements of applicable permits and ordinances have been met. (See Section 1106)

Change in Use. The change from one allowable use listed in the Table of Uses, to another allowable use listed. To alter or vary the function, service, purpose of any portion of a building, structure, or land from one use to another. A change in use may require a Town permit, especially if involving a business. Example: Demolition is a Change of Use.

Clinic, Health &/or Therapy. An office building used by members of the medical, therapeutic, and dental professions for the diagnosis and outpatient treatment of human ailments.

Club (also Lodge, Fraternal Organization). *A group, organization, or association of people having a common purpose and holding regular meetings or events at a club house or room. This definition is not intended to include Town Appropriate Municipal Panels, or exemptions to municipal bylaws as identified in 24VSA Ch.117 Section 4413(a).*

Community Center. A public or private meeting hall, place of assembly, museum, art gallery, library, educational facility, or church.

Conditional Use. A use that has been determined to meet the general standards for conditional uses [24 VSA 4407 (2) A -E] for the District in which it is proposed to be located and for which specific standards have been developed and detailed in Article IV.

Condominium. Real property consisting of units of individual ownership combined with ownership of common elements by the individual unit owners.

Contractor Yard. An area (with or without shop) that is used by a building/landscaping, excavation, or other trades to store business related materials, tools, equipment.

Controlled Substances. Controlled Substances are any category of behavior-

altering or addictive compounds in any form (organic, solid, liquid) regulated by VT or federal law, and used in a commercial activity.

Cottage Industry. An activity, carried out in a dwelling or accessory structure, such as home offices, repair services, business and personal services, and goods produced or manufactured on site and which meets the conditions of Section 404. Cottage industries also include a use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

Coverage, Building. The percentage of a lot or development site occupied or intended to be occupied by all buildings and structures. Building coverage shall include the building area, but not more than 20% of the land covered by water bodies, watercourses, wetlands, and land having slopes of 25% or greater shall be included in lot area used for computing maximum allowable building coverage.

Commented [KR369]: Unclear - consider revising

Coverage, Total. The percentage of a lot or development site occupied or intended to be occupied by all buildings, structures, parking areas, driveways, walks and similar improvements. Patios and terraces, as defined herein, shall be excluded. Total coverage shall include the building area and 50% of the surface area of tennis courts, but no more than 20% of the land covered by water bodies, watercourses, wetlands, and land having slopes of 25% or greater shall be included in the lot area used for computing the maximum allowable total coverage.

Craft Shop. A building or portion thereof where hand-crafted articles are produced and/or sold. (See Studio)

Crawl Space. That portion of a building located below the first floor of the building and which is less than 5 feet in height from floor to under beam.

Day Care Facility. Any place operated under a VT day care license as a business or service on a regular or continuous basis, whether for compensation or not. Its primary function is the protection, care and supervision of persons outside their homes, for periods of less than 24 hours a day. (See Section 1005)

Development. The division of a parcel into two (2) or more parcels, the construction, reconstruction, *demolition*, conversion, structural alteration, relocation or enlargement of any building(s) or other structure(s), or 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.

Development Review Board. A body appointed by the Select Board to decide cases involving variances, conditional uses, appeals, and other matters as set forth in these regulations.

District. A specific portion of the town as established by the provisions of this ordinance and the zoning map.

Dormitory Room. Any room or space in a hotel, motel, lodge, bed-and-

breakfast, or residence which contains beds offered to the public for compensation for transient occupancy and which has furnishing designed to accommodate more than four (4) people per room. *Also see Guest Room.*

Drive-In/Service or Drive-Up Facility. A business establishment *such as a restaurant, pharmacy, or bank* so developed that *it includes part of its principal retail or service by* providing a driveway approach with stacking or parking spaces for motor vehicles so as to either provide service to patrons while in a motor vehicle or intended to permit consumption outside of the building. A drive-in food service restaurant shall include self-service restaurants where food is generally served in disposable containers or plates and primarily over the counter.

Dump. Land or any area where trash, garbage, sewage, *waste materials*, refuse of any nature, junk, discarded machinery, vehicles or parts thereof are collected, stored or deposited. *Also refer to Recycling Collection Point/Station.*

Dwelling Unit. Building or part thereof used as a living quarters for a person or persons use and occupancy; having exclusive use of its own kitchen, bathroom, and sleeping area(s). The terms “dwelling”, “one-family dwelling”, “two-family dwelling”, “multi-family dwelling”, or “dwelling group” shall not include a motel, hotel, boarding house, bed and breakfast lodging, or similar structure, but shall include a mobile home. (see Section 1017)

Dwelling, One-Family. Detached building (including a mobile home) used as living quarters by one family. A state licensed or registered residential care home or group home serving not more than six persons who are developmentally disabled or physically handicapped, shall be considered by right to constitute a permitted single family residential use except that no such home shall be so considered if it locates within 1,000 feet of another such home.

Dwelling, Multi-Family. Building having three or more Dwelling Units, and living independently of each other.

Dwelling, Two-Family. Building having two Dwelling Units, and living independently of each other.

Earth Resources Extraction The excavation ~~offer~~ earthen material, for placement onsite or transportation offsite, whether for personal or commercial use. (See Sections 1024, 1016, 901)

Enclosed Storage. A storage area that is surrounded by fencing, screening and/or other means which conceals the material to be stored from all abutting properties.

Family. One or more persons living, sleeping, cooking and eating on the same premises as a single housekeeping unit, provided that unless all members are related by blood, marriage or adoption, no such single housekeeping unit shall contain more than five members.

Family Child Care Home or Facility. A home or facility where the owner or operator is licensed or registered by the state for child care. (see Day care)

Fence. Any material or combination of materials erected to enclose, screen,

separate, or demarcate areas of land. A solid fence (without spacing between its materials, such as a stone or masonry assembly) may also be called a wall. (Refer to Sections 1023 and 1103 for local regulations on fences.)

Fill. Earthen, stone or mix of aggregate material(s) placed on the ground. (See Sections 901, 1016)

Floor Area (Gross). Sum of the gross horizontal area of the floors of a building, all dimensions shall be measured from exterior wall faces. Gross Floor Area shall include the area of basements, cellars, and half stories but not attics or crawl spaces as defined herein. Gross floor area shall exclude stairwells, elevator shafts, atriums and other similar holes in a floor above the lowest floor level.

Fuel Storage- Bulk: A facility containing large volumes of combustible liquids, gasses, or lubricants; stored on the premises of one primary consumer (examples: factory, energy generation plant).

Fuel Storage –Distribution: A facility containing large volumes of combustible liquids, gasses, or lubricants; stored on the premises for retail sales and delivery to consumers.

Floor Area (Patron). All floor space accessible to customers, including foyers and hallways but excluding bathrooms and coatrooms.

Front Line, Building. The line, parallel to the street line, that passes through the closest point of the principal building nearest the front lot line.

Garden/Landscape Center: A store that sells plants, trees, seed, tools and related chemicals for growing plants.

Gasoline Station. See Auto Service station.

Golf Course. A golf course shall consist of at least nine holes where regulation play is permitted as well as par three and pitch and putt courses.

Grade, Finished. Completed surfaces of ground, lawns, walks, paved areas, and roads brought to grades as shown on plans relating thereto.

Group Home: Any residential facility operating under a license or registration granted or recognized by a state agency, that serves not more than eight unrelated persons, who have a handicap or disability as defined in 9 V.S.A. section 4501, and who live together as a single housekeeping unit. In addition to room, board and supervision, residents of a group home may receive other services at the group home meeting their health, developmental or educational needs.

Guest Room. Any room or space in a hotel, motel, lodge, bed-and-breakfast, or residence offered to the public for compensation for transient occupancy and which has furnishings designed to accommodate not more than four (4) people per room. (See *Dormitory Room*)

Historic Site. An area deemed worthy of preservation for historical reasons. The area may be so classified by federal, state or local authority.

Historic Structure. Any structure that is:

Commented [KR370]: You should remove "may" from this sentence. It currently leaves uncertainty. May make more sense to redraft sentence as "except solid fences . . ."

Commented [KR371]: May want to differentiate between fill and driveways

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either;
 - By an approved state program as determined by the Secretary of the Interior; or directly by the Secretary of the Interior in states without approved programs.

Home Occupation. Any use conducted entirely within a minor ~~(less than 50% of the finished living area of the principal residence of the business owner)~~ portion of a one- or two-family dwelling, or the use of an accessory building on the same lot as such dwelling (less than 50% of the finished living area of the dwelling unit of the business owner), carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for living purposes and does not change the residential character thereof. See Section 1004.

Hotel. A building or portion thereof kept, used, maintained, advertised, or held out to the *transient* public to provide overnight accommodations to said public for compensation, by the renting of rooms or a bed with a room. *Allowable accessory uses may include restaurants and other dining or conference areas, bars/lounges, pools and fitness facilities.*

Indoor Sports Recreational Facility. A fully enclosed building or area containing facilities for the practice of one or more recreational activities.

Industrial. Primarily the use of basic industrial activities, many of which characteristically store bulk quantities of raw or scrap material for processing or manufacture to semi-finished projects. Major manufacturing and related industrial activities are also included. Production performance of the Manufacturing Industries consists primarily of receiving or storing semi-finished products or, in some cases, raw agricultural food products (other than livestock) for further processing, refining or assembling into finished or more finished products. The Use is generally related to rail transportation for delivery of the heaviest bulk products.

Industrial, Light. Those industries which are primarily for lighter manufacturing, fabrication, and related activities which characteristically produces a finished product from semi-finished materials, or in some cases from raw food products, but requires little or no outside material storage. This use does not regularly cause offensive odors, dust, smoke or noise. The district may have less specific

Commented [KR372]: Must also include "multi-family" - see 24 v.s.a.4412(4)". . . No bylaw may infringe upon the right of *any* resident to use a minor portion of a dwelling unit for an occupation . . ." (emphasis added)

Commented [KR373]: Moved from above for readability and changed "principal residence" to "dwelling unit" to account for multi-family units and clarity

relation to fixed transportation routes and may rely primarily upon truck or air cargo deliveries for lighter bulk items.

Industrial Park or Industrial Zoning District: see Planned Unit Development

Junk Yard. Any land, buildings or structure, excepting a licensed recycling facility, used for collecting or storage of discarded material; or for the collecting, wrecking, dismantling, storage, salvaging or sale of machinery parts or vehicles; or the storage of any unlicensed or non-operative vehicles not enclosed in a building. (*Refer to Dump, Recycling Collection Point*).

Inn. An owner-occupied building or group of buildings used to provide overnight accommodations, and one or more meals, to guests for short periods of stay (e.g. tourists). Inns may incorporate the primary structure on the Lot as well as accessory structures, but shall not exceed 25 guest rooms.

Kennels (See Animal Housing Facility)

Land Development. *See development.*

Lawn Sales: Any general sales to the Public, conducted from a residential premise for the purpose of disposing of personal property. (refer to Town Ordinance on Lawn Sales)

Loading Space. Space logically and conveniently located for pickups and deliveries, on the same lot as the principal use. It should be scaled to the delivery vehicles expected to be used but not less than 15 feet by 25 feet with a minimum 15-foot height clearance. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking.

Lodge. *This may refer to a type of rental housing and/or a club or fraternal organization meeting place (See Bed & Breakfast, Club, Inn)*

Lot. Land occupied or to be occupied by a building and its accessory buildings, together with the required open spaces, having not less than the minimum area, width, and depth required for a lot in the district in which such land is situated, and having frontage on the street, or other means of access.

Lot Area. Total contiguous area within the property line as shown on the property boundary maps.

Lot, Corner. A lot abutting on and at the intersection of two or more streets.

Lot Depth. Mean horizontal distance from the street line of the lot to its opposite rear line measured at right angles to the street line.

Lot Frontage. Each division line between any land and a public highway right of way or a private vehicular right of way existing or proposed. . *Also, the length of such line.*

Lot Line. Property lines bounding a lot.

Lot Width. Width measured at right angles to its lot depth, at the required lot frontage. *For irregular shaped lots; an average (mean) depth shall be determined by the Administrative Officer; if necessary.*

Manufactured (Modular or Panel) Building A factory built, single, two-family, multi-family, or commercial structure, transportable in one or more sections, which is *not* built on a permanent chassis, but is designed to permit delivery to a site for installation on a permanent foundation system, with multiple levels possible. When connected to the required utilities, the building is designed as a place of human use or habitation.

Manufactured Home/Mobile Home. A factory-built, single family structure, transportable in *one or two* sections on a permanent chassis and axles, designed to be used as a one-story structure, and remain transportable, or be set on a gravel pad, concrete slab, or permanent foundation. (*See Tiny Houses*)

Manufacturing, Light. A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing. This use does not regularly cause offensive odors, dust, smoke or noise.

Medical Center. A facility for diagnosis and treatment of patients.

Mobile Home Park. A parcel of land under single or common ownership or control that contains, or is designed, laid out or adapted to accommodate two or more mobile homes.

Motel. Building containing rooms, which are rented as a series of *individual* sleeping units each with an outside entrance. *Commonly for use by transient guests*, each sleeping unit consisting of at least a bedroom and bathroom.

Motor coach. A mobile vehicle designed for short-term occupancy, overnight lodging, or camping purposes, capable of being towed or self-propelled.

Motor Vehicle. Includes any equipment designed to carry or transport persons or materials, whether powered by an internal motor, or pulled or carried by other motor powered equipment. Includes but not limited to aircraft, boats, cars, trucks, trailers, Recreational Vehicles, snowmobiles, motorcycles, all-terrain vehicles, farming equipment (excludes lawn & garden equipment).

Motor Vehicle Sales Dealership. Land and/or buildings used for the display, sale, rent or lease, and service of new or used motor vehicles.

Neighborhood Commercial Facility. A commercial enterprise which primarily provides convenience goods and services, or basic necessities. This definition excludes bars, lounges and those commercial activities that have been specifically designated to non-residential districts by the Zoning Regulations.

Nightclub, Lounge, Bistro. A place of business whose primary function is the serving of alcoholic beverages and providing entertainment. This Use may be permitted with a Restaurant Use.

Non-Commercial. An activity or facility run by non-profit organizations and/or available to the general public without a fee.

Nonconforming Lots or Parcels. Lots or parcels that do not conform to the present bylaws covering dimensional requirements but were in conformance with

all applicable laws, ordinances and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the administrative officer.

Nonconforming Use. Use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the administrative officer.

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

Nonresidential Structure or Use. All uses of buildings, structures, or land *except* one, two, and multi-family dwellings.

Nursing Home. A place, other than a hospital which maintains and operates facilities, for profit or otherwise, accommodating Nine or more persons unrelated to the home operator, who are suffering from illness, disease, injury or deformity and require nursing care. Nursing Home shall include Intensive Care, Skilled Care, Intermediate Care, Assisted Living (with or without private living quarters), Minimum Nursing Care, and Pediatric Convalescent facilities. (See Section 1005)

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

Open Storage. The keeping in an unroofed area, of any goods, garbage, junk, materials, merchandise, or un-registered &/or un-inspected vehicles in the same place for more than 24 hours, and easily visible from streets or property boundaries.

Outdoor Recreation. Outdoor sports and activities such as skiing, hiking, tennis, golf, horseback riding, fishing, hunting, swimming, and similar activities, and structures necessary to and incidental to the actual carrying on of such activities.

Park, Municipal. Any recreation area *or park facility* owned by the Town of West Rutland.

Parking Space. A defined space, which is at least nine (9) feet wide and twenty (20) feet long, located outside of the right of way, parking aisle, or driveway, used for the parking of one motor vehicle, with practical access to the road or right of way, and sufficiently surfaced with durable material to permit year round use.

Permitted Use. Use specifically allowed in a district (see Article III) excluding illegal uses, conditional uses and nonconforming uses; permits are required for each permitted use. The Zoning Administrator may issue permits for conforming Permitted Uses without further DRB review.

Personal Services. Includes barber, hairdresser, beauty parlor, masseuse, shoe repair, shoeshine, laundry, dry cleaner, photographic studio, and businesses providing services of a personal nature.

Planned Unit Development. An area of land, controlled by a landowner or

landowners, to be developed as a unified project and single entity for a number of dwelling units and/or commercial and industrial uses, the proposal for which does not correspond to the requirements of uses listed in Section under “Not in PUD” in any one or more districts created in these Zoning regulations, with respect to setbacks, coverage, lot size, density, required open space, and/or uses. Specific requirements and uses for a PUD are contained within Section 204

Principal Building. A building in which is conducted the main or principal use of the lot on which said building is located. Attached garages or carports, open at the sides but roofed, are part of the principal building.

Private Club. A building or portion of a building, or use open to club members and their guests, and not to the general public, and not operated for profit. *(See Association)*

Professional Residence-Office. Residence in which the occupant has a government issued license professional office (Examples: architect, accountant, chiropractor, dentist, doctor of medicine, landscape architect, land surveyor, lawyer, optometrist, osteopath, physiotherapist, consultant, podiatrist, engineer, or psychologist) and maintains a Home Office which does not change the residential character thereof.

Public Water, Public Sewer. Water supply and sewage disposal systems approved by the legislative body for municipal operation.

Recreation, Private. Recreation uses privately owned and operated, including picnic grounds, shooting ranges, hiking and riding trails, hunting and fishing areas, wildlife sanctuaries, nature preserves, swimming areas and boat launching sites, golf driving range, golf pitch and putt course, par three golf courses, skating rinks, swimming pools, parks, beaches, tennis courts, indoor bowling alley, theater, table tennis and pool hall, gymnasium, health club, hobby workshop, riding stables, and similar uses

Recycling Collection Point. A public or privately operated location; where this use incidental to the principal use that serves as a local drop-off point for temporary storage of recoverable resources. No processing of such items is allowed. This facility would generally be located in a shopping center parking lot or in other public/quasi public areas such as churches and schools.

Rear Lot Line. A lot line opposite and most distant from any lot front line.

Religious Institution. Includes but not limited to church, temple, parsonage, rectory, parish house, convent, seminary, retreat house, and associated buildings.

Renewable Energy Resources. Energy available by generation or for collection or conversion from direct sunlight, wind, geothermal, running water, organically derived fuels including wood, agricultural sources, waste materials, and waste heat sources. Includes any structures or equipment necessary for the collection or conversion of such energy.

Repair Shop. Facility for the repairing or maintenance of items, appliances, yard & garden equipment. Excludes Motor Vehicles *(refer to definition)*.

Residential Care Home. A place, however named, excluding a licensed foster home, which provides, for profit or otherwise, room, board, and personal care to three or more residents who are not developmentally disabled or physically handicapped, and unrelated to the home operator. (See Section 1004)

Residential Use. One, two or multi-family Dwelling–Units; Not associated with short term or transient use of facilities such as a B&B, Inn, Hotel, Motel.

Restaurant. A public eating-place where seats and/or counters, or window pick-up, of food are provided for patrons. This Use is separate from, but may be permitted along with Night Club (*see definition*) Use. (*Refer to Section 404*)

Retail Store. Includes shop and store for the sale of retail goods, personal service shops, department stores, commercial schools, and shall exclude any free-standing retail stands, auto service stations, motor vehicle repair service shops and motor vehicle sales dealerships.

Road Frontage. See Street Frontage

Rooming or Boarding House. A residence used and operated (in part) as a **Business**, but not specifically designed for the maximum accommodation of eight unrelated occupants; and having common areas (bathrooms, dining or kitchens).

Commented [KR374]: Confusing -consider redrafting

Salvage Yard. An open area where wastes or used or pre-owned materials are bought, sold, or exchanged, stored, processed or handled. Materials shall include, but are not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles.

Satellite Dishes, Antenna. Devices used to transmit or receive electromagnet communications; including supporting structures and electronics enclosures.

School. Includes parochial, private, or public nursery schools, elementary schools, high schools, colleges, universities, and associated accessory uses.

Setbacks. The distance from a property boundary line to a building or structure, measured to its nearest wall, cantilevered portion of a structure, porch or deck, but not to steps or normal roof overhang. Certain exceptions apply to fences,

- a) **Front Setback:** Distance between a building or structure and front street line. *When there is more than one front street, only the street line identified by the structure's address shall be considered the front street and setback.*
- b) **Rear Setback:** Distance between a building or structure and a rear lot line.
- c) **Side Setback:** Distance between a building or structure a side lot line.

Commented [KR375]: Town highway or private road right of way line

Shopping Center. A commercial /retail shopping or business area containing three (3) or more retail tenants in one or more buildings all situated on one lot and serving the general public

Sign. Sign means any structure, display, device or representation which is

designed or used to advertise or call attention to or direct a person to any business, association, profession, commodity, product, institution, service, entertainment, person, place, thing, or activity of any kind whatsoever, and is intended to be visible from a public thoroughfare. Whenever dimensions or areas of signs are specified, they shall include all panels, frames, and supporting structures excluding the building to which a sign may be attached.

Sign, Illuminated. A sign that is either illuminated from an electrical source behind the sign face, referred to as back or internal lighting; or illuminated externally by lamp fixtures directing light on the signs' message.

Site Plan. A plan, to scale, showing uses and structures proposed for a parcel of land as required by these regulations. It includes lot lines, streets, building sites, open space, buildings, major landscape features, and proposed utility lines, if any. See Article IX for further criteria.

Story. That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling above the floor of such story.

Street or Road.

1) A municipally owned Public way for vehicular traffic, which affords the principal means of access to abutting properties.

2) A privately owned and maintained access way, created by a legal and permanent easement or right-of-way agreement, for access by one or more parties granted permission for its use. A private road way may not be synonymous with a property boundary.

Street Frontage. The length of a lot which abuts a Public street, measured at the Street Line, from one lot line to the opposite lot line. Street frontage and lot frontage are not synonymous.

Street Grade. Officially established grade (*Class I, II, III, IV, discontinued, etc.*) of the street upon which a lot fronts. If there is not officially established grade, the existing grade of the street shall be taken as the street grade.

Street Line (Right of way). Right-of-way of a *Public* street as dedicated by a deed of record. Where width of the *Public* street is not established, the *Public* street line shall be considered to be twenty-five (25) feet from the centerline of the street travel lane. *If the total width of a Private Right of Way is not defined by the legal document creating it, it shall be considered to have a minimum width of twenty (20) feet.*

Structure. An assembly of materials (excepting earthen or masonry landscape materials) for occupancy or use including, but not limited to, a building, mobile home shipping container or trailer, swimming pool (above and in-ground), tennis court, sign, water impoundments, wall or fence (except on an operating farm). Detached sheds, playground facilities, dog houses, etc. not exceeding 120 feet in floor area, not more than 10 feet in height are exempt from this definition. (*Refer*

Commented [KR376]: Might be worth adding a ROW definition, even if it merely says see "Street line"

Commented [KR377]: The sentence contradicts the sentence prior - is it 25' from centerline or 20' total? I would consult the road foreman/commissioner on this as he may understand some of the ROW history. Many town roads were laid out as 3 rod roads which equals 49.5' or 24.75' from centerline.

to Section 1103)

Substantial Completion. Level of construction, renovation, or change of use that exceeds fifty (50%) percent of the permitted project's estimated cost; AND required water, waste water, and electrical systems are connected and operational, AND providing the exterior appearance of the project appears complete with regards to the structure and finish grading.

Commented [KR378]: This could be difficult to assess when trying to determine if project is substantially complete or whether a permit should expire

Substantial damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed fifty (50%) percent of the market value of the structure before the damage occurred.

Commented [KR379]: This clause effectively makes the term "substantially complete" read like outwardly finished (which may be your goal), but many towns instead limit this definition to completion of water, wastewater, foundation and access.

Substantial Improvement. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value, as determined from Town assessment, of the structure, or changes the exterior footprint of the structure, or its Use. The term does not include any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or any alteration of a structure listed on the National Register of Historic Places, or a State Inventory of Historic Places.

Studio. A place that may be used as both a dwelling and/or a place of work by an artisan, or craftsman, including persons engaged in the practice, application, teaching, or performance of fine arts such as but not limited to drawing, vocal or instrumental music, painting sculpture and writing.

Temporary structure, improvement, or use. Unless otherwise defined, "temporary" shall mean up to 150 days in existence or use in a calendar year. After 150 days, the structure, improvement or use is deemed "Permanent".

Commented [KR380]: Might want to add more clarity here. As I read this now, any structure could be considered temporary for 150 days before needing a permit. It may be worth adding some language that defines what types of structures could be considered temporary. For example, structures lacking a foundation or other features of permanency. It might be worth noting some examples of structures that could not be considered temporary as well.

Terminal, Truck/Bus/Limo A transportation facility from which trucks and/or buses are dispatched and where vehicles are stored and/or maintained.

Terrace or Patio. An open, improved or graded combination of earthen materials, located on the ground with no structural supports other than subsurface base materials and/or retaining walls. A terrace or patio; or masonry walls less than three (3) feet high (refer to Section 1103) shall not be deemed a structure; and are exempt from a local permit requirement, but not prescribed setbacks.

Tiny House A general term for a small dwelling unit (under 400 sq.ft. footprint) with kitchen, bath and sleeping facilities. For Town Zoning purposes, Foundation Bound Units that do not have an internal metal frame and axle system, and designed to be attached to a permanent foundation, are to be considered a Manufactured Home/Modular Building; and are to be constructed to International & VT Residential Codes. Code-built Units with an internal metal frame attached to axles, and designed to be towed on public roads with/ without any special transport permits (for over width, length or height); shall be considered Manufactured (HUD) Housing. A Recreational Vehicle (RV), designed for temporary camping travel or seasonal use is not a Tiny House.

Commented [KR381]: Is there a common name for this - if so, include it in parenthesis.

Trailer

a. (Recreational Vehicle, R.V.) Includes any camping trailer, travel trailer, pickup coach or motor home and/or any other vehicle used as temporary or seasonal sleeping or camping or living quarters mounted on wheels; or a camper body usually mounted on a truck and any vehicle which is customarily towed by a motor vehicle and used for carrying goods, equipment, machinery, or boats; or is used as a temporary office. A Mobile Home (H.U.D. certified) is not a Trailer.

b. Any wheeled platform designed to be towed and used to transport materials.

Utility, Public. Any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing to the public under state or municipal regulations to the public, electricity, gas, communications, or transportation.

Vendors: All persons, principals, or other commercial entities who engage in a temporary or transient business or activity, either at one location or travelling from place to place to sell goods, wares, stock merchandise; or soliciting customers for services to be provided; or promoting attendance to special events or gatherings. A Vendor license/permit is required (refer to the Town Ordinance on Lawn Sales).

Veterinary Hospital/Clinic: A business where veterinary services are provided by a licensed professional to domestic, farm, and wild animals, either on an outpatient or over-night stay, as necessary for the animal's treatment and recovery.

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

Water Supply (Approved). A potable water supply approved by a state certified testing lab.

Well Head (Water Source) Protection Area. An Area or District designated by the Town for additional restrictions it deems necessary to protect the sources, production capability, and environmental quality of head waters, wells, wetlands and other potable water supplies.

Wetland. An area that is inundated or saturated by surface water or groundwater at a frequency or duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrotropic vegetation.

Wholesale Establishment. Any firm doing business on a restricted customer basis and not available to the general retail public

Wood Manufacturing. The delivery of raw or semi-processed wooden materials from another location, stored, further machined into a semi-finished or ready-to-use product (furniture, lumber, firewood, etc.), reloaded and transported off site for resale. Operations may be conducted either outside, enclosed, or both. This process is not an agricultural or silvicultural exemption from Town permits.

Wood Working Shop. An interior operation for the manufacturing, repair, or restoration of wooden products.

Zoning Administrator (ZA). Refers to the person appointed by the Select

Board to interrupt, apply, and enforce the Town's Zoning Regulations, and Ordinances (if authorized to do so by the Select Board).

Commented [KR382]: Superfluous

Zoning District. A section of the Town designated in the zoning ordinance text and delineated on the Official Zoning Map, in which requirements for the use of land, and building and development standards are prescribed.

Zoning Permit. The official document applied for, and issued by the Zoning Administrator, for any development or change of use within the Town.

DRAFT (3.21.2022)
ATTACHMENT A
TOWN OF WEST RUTLAND
FLOOD HAZARD AREA REGULATIONS
Proposed Amendment to 6/11/2012 Regulations

Commented [SS383]: Recommend incorporating these into the articles above so part of regs and not an attachment. They are really just another set of criteria that will apply to the same overall project so I'd either have them as a separate document if you want them separate, or incorporating them into the articles/sections above so they aren't overlooked. Should be part of the districts, specific standards, general standards, review criteria.

I. STATUTORY AUTHORIZATION AND EFFECT.....919189

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I. Statutory Authorization and Effect

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

II. Statement of Purpose

It is the purpose of this bylaw to:

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

III. Other Provisions

A. Precedence of Bylaw

The provisions of these flood hazard bylaws shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Where this flood hazard regulation imposes a greater restriction the provisions here shall take precedence.

B. Validity and Severability

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

C. Warning of Disclaimer of Liability

This bylaw does not imply that land outside of the areas covered by this bylaw will be free from flood damages. This regulation shall not create liability on the part of the Town of West Rutland, or any municipal official or employee thereof, for any flood damages that result from reliance on this regulation, or any administrative decision lawfully made hereunder.

IV. Lands to Which these Regulations Apply

A. Regulated Flood Hazard Areas

These regulations shall apply to the Special Flood Hazard Area in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Chapter 32 § 753, which are hereby adopted by reference and declared to be part of these regulations. The location of the boundary shall be determined by the Zoning Administrator (ZA). If the applicant disagrees with the determination made by the ZA, a Letter of Map Amendment from FEMA shall *constitute proof*.

B. Base Flood Elevations and Floodway Limits in Special Flood Hazard Areas

Where available, base flood elevations and floodway limits provided by the National Flood Insurance Program and in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations. In Special Flood Hazard Areas where base flood elevations and/or floodway limits *have not* been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, it is the applicant's responsibility to develop the necessary data. Where available, the applicant shall use data provided by FEMA, or State, or Federal agencies.

V. Summary Table: Development Review in Hazard Areas

The hazard areas are not appropriate sites for new structures nor for development that increases the elevation of the base flood.

#	Activity	Hazard Zone	
		Special Flood Hazard Area	Floodway
	P Permitted C Conditional Use Review X Prohibited A Exempted		
1	New Structures	X, C*	X
2	Storage	X, C*	X
3	Improvements to Existing Structures	P, C	C
4	Small Accessory Structures	P	X
5	At Grade Parking	P	C
6	Replacement water supply or septic systems	C	C
7	Fill as needed to elevate existing structures	C	X
8	Fill, as needed to elevate new structures min. 2ft. above BFE	X, C*	X
9	Fill	X	
10	Grading	C	C
11	Road maintenance	A	A
12	Road improvements	C	C
13	Bridges and culverts	C	C
14	Channel management	C	C
15	Recreational vehicles	P	P
16	Open space, recreation	A	A
17	Forestry	A	A

Asterisk* Allowed as Conditional Use ONLY in Village, Commercial, Residential and Industrial Zoning Districts.

VI. Development Review in Hazard Areas

A. Permit

A permit is required from the Administrative Officer for all development in all areas defined in Section IV. Development that requires conditional use approval, non-conforming use approval, or a variance from the Development Review Board (DRB) under these flood hazard regulations, must have such approvals prior to the issuance of a permit by the ZA. Any development subject to municipal jurisdiction in the designated hazard areas shall meet the criteria in Section VI and VII. Any permit issued will require that all other necessary permits from State or Federal Agencies have been received before work may begin.

B. Permitted Development

For the purposes of review under these regulations, the following development activities in the Special Flood Hazard Area where outside of the Floodway, and meeting the Development Standards in Section VII, require only an administrative permit from the ZA:

1. Non-substantial improvements;
2. Accessory structures;
3. Development related to on-site septic or water supply systems;
4. Building utilities;
5. At-grade parking for existing buildings; and,
6. Recreational vehicles.

C. Prohibited Development in Special Flood Hazard Area

1. New residential or non-residential structures (including the placement of manufactured homes);
2. Storage or junk yards;
3. New fill except as necessary to elevate **new or existing** structures a min. of 2 ft. above the base flood elevation;
4. Accessory structures in the floodway;
5. Critical facilities are prohibited in all areas affected by mapped flood hazards; and,
6. All development not exempted, permitted, or conditionally permitted.

D. Conditional Use Review

Conditional use review and approval by the DRB, is required prior to the issuance of a permit by the ZA for the following proposed development:

1. Substantial improvement, elevation, relocation, or flood proofing of **new or existing** structures;
2. New or replacement storage tanks for existing structures;
3. Improvements to existing structures in the floodway;
4. Grading, excavation; or the creation of a pond;
5. Improvements to existing roads;
6. Bridges, culverts, channel management activities, or public projects which are functionally dependent on stream access or stream crossing;
7. Public utilities;

E. Exempted Activities

The following are exempt from regulation under this bylaw:

1. The removal of a building or other structure in whole or in part;
2. Maintenance of existing roads and storm water drainage;

3. Silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices; and,
4. Agricultural activities conducted in accordance with the Vermont Department of Agriculture's Accepted Agricultural Practices (AAP). Prior to the construction of farm structures the farmer must notify the ZA in writing of the proposed activity. The notice must contain a sketch of the proposed structure including setbacks.

F. Variances

Variances may be granted in writing by the DRB only in accordance with all the criteria in 24 V.S.A. § 4469, § 4424 (E), and 44 CFR Section 60.6, after a public hearing noticed as described in Section VIII.

Any variance issued in the Special Flood Hazard Area will not increase flood heights, and will inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

G. Nonconforming Structures and Uses

The DRB may, after public notice and hearing, **approve the new construction**, repair, relocation, replacement, or enlargement of a nonconforming structure within a flood hazard area provided that:

1. The proposed development is in compliance with all the Development Standards in Section VII of this bylaw;
2. **A nonconforming structure that is substantially damaged or destroyed may be reconstructed only in circumstances when the structure cannot be relocated to a less hazardous location on the parcel. The lowest floor of the reconstructed structure must be rebuilt to one foot or more above the base flood elevation, and the structure must otherwise comply with all requirements of the National Flood Insurance Program;**
3. **Nonconforming structures or uses shall be considered abandoned where such structures or uses are discontinued for more than 24 months; and**
4. **An individual manufactured home lot in an existing manufactured home park that is vacated shall not be considered a discontinuance or abandonment of nonconformity. Replacement manufactured homes must be placed so as to meet the development standards in this bylaw.**

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

A. Special Flood Hazard Area

1. All development shall be:

- a. Reasonably safe from flooding;
- b. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
- c. Constructed with materials resistant to flood damage;
- d. Constructed by methods and practices that minimize flood damage;
- e. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- f. Adequately drained to reduce exposure to flood hazards;
- g. Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and,
- h. Required to locate any fuel storage tanks (as needed to serve an existing building in the Special Flood Hazard Zone) a minimum of one foot above the base flood elevation and be securely anchored to prevent flotation; or storage tanks may be placed underground, if securely anchored as certified by a qualified professional.

2. In Zones AE, AH, and A1 – A30 where base flood elevations and/or floodway limits have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 1.00 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer.

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

4. Non-residential structures to be substantially improved shall:

- a. Meet the standards in VII A 3; or,
- b. Have the lowest floor, including basement, together with attendant utility and sanitary facilities be designed so that two feet above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of

water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; A permit for flood proofing shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

5. *Fully enclosed areas below grade* on all sides (including below grade crawlspaces and basements) are prohibited.
6. *Fully enclosed areas that are above grade*, below the lowest floor, below BFE and subject to flooding, shall
 - a. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and,
 - b. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
7. *Recreational vehicles* must be fully licensed and ready for highway use;
8. A *small accessory* structure of 500 square feet or less that represents a minimal investment need not be elevated to the base flood elevation in this area, provided the structure is placed on the building site so as to offer the minimum resistance to the flow of floodwaters and shall meet the criteria in VII A 6 (above).
- 9.. *Water supply systems* shall be designed to minimize or eliminate infiltration of flood waters into the systems.
10. *Sanitary sewage systems* shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
11. *On-site waste disposal systems* shall be located to avoid impairment to them or contamination from them during flooding.
12. *The flood carrying and sediment transport capacity* within the altered or relocated portion of any watercourse shall be maintained, and any alteration or relocation shall not result in any decrease of stream stability;
13. *Bridges and culverts*, which by their nature must be placed in or over the stream, must have a stream alteration permit from the Agency of Natural Resources where applicable.

- 14 *Subdivisions and Planned Unit Developments must be accessible by dry land access outside the special flood hazard area.*
15. *Existing buildings, including manufactured homes, to be substantially improved in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least as high as the depth number specified on the community's FIRM, or at least two feet if no depth number is specified.*

B. Floodway Areas

1. Encroachments or development above grade and less than one foot above the base flood elevation, are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a registered professional engineer, certifying that the proposed development will:
 - a) Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood;
 - b) Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.
2. Public utilities may be placed underground, and the analyses may be waived, where a registered professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.

VIII. Administration

A. Application Submission Requirements

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

B. Referrals

1. Upon receipt of a complete application for a substantial improvement or new construction the ZA shall submit a copy of the application and supporting information to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, in accordance with 24 V.S.A. § 4424. A permit may be issued only following receipt of comments from the Agency, or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.

2. If the applicant is seeking a permit for the alteration or relocation of a watercourse, copies of the application shall also be submitted to the adjacent communities, the Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. Copies of such notice shall be provided to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation. A permit may be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Vermont Agency of Natural Resources, whichever is sooner. The Board should consider comments from the NFIP Coordinator at ANR.

C. Records

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

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

IX Certificate of Occupancy

In accordance with Chapter 117 §4449, it shall be unlawful to use or occupy, or permit the use or occupancy of any land or structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure within Special Flood Hazard Area until a certificate of occupancy is issued therefore by the Administrative Officer, stating that the proposed use of the structure or land conforms to the requirements of these bylaws. A certificate of occupancy is not required for structures that were built in compliance with the bylaws at the time of construction and

have not been improved since the adoption of this bylaw. Within 14 days of the receipt of the application for a certificate of occupancy, the ZA shall inspect the premises to ensure that all permits identified on the Project Review Sheet have been acquired and all that all work has been completed in conformance with the zoning permit and associated approvals. If the ZA fails to grant or deny the certificate of occupancy within 14 days of the submission of the application, the certificate shall be deemed issued on the 15th day. If a Certificate of Occupancy cannot be issued, notice will be sent to the owner and copied to the lender.

X. Enforcement and Penalties

A. This bylaw shall be enforced under the municipal zoning bylaw in accordance with 24 VSA § 1974a, § 4451, and § 4452. A copy of the notice of violation will be mailed the State NFIP Coordinator.

B. If any appeals have been resolved, but the violation remains, the ZA shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the property pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

C. Violations of the Accepted Agricultural Practices shall be enforced under this Section as violations of this bylaw. Such violations shall also be immediately reported to the Secretary of Agriculture for enforcement under 6 V.S.A. Section 4812.

XI. Definitions

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

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

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

“Base Flood Elevation” (BFE) is the elevation of the water surface elevation resulting from a flood that has a 1 percent chance of equaling or exceeding that level in any given year. On the Flood Insurance Rate Map the elevation is usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988,

Commented [SS384]: These can be separate subsection of regulation's definition section.

or other datum referenced in the Flood Insurance Study report, or the average depth of the base flood, usually in feet, above the ground surface.

“BFE” see Base Flood Elevation

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

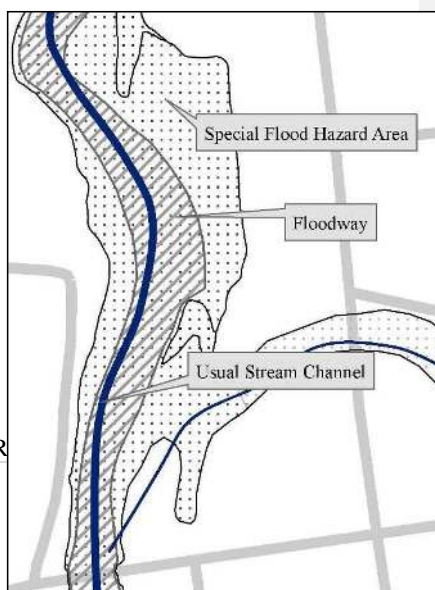
“Critical facilities” - include police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities, and other structures the community identifies as essential to the health and welfare of the population and that are especially important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

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

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

“FIRM” see Flood Insurance Rate Map

“Flood” means (a) a general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the



surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

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

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

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

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

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

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

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

“Historic structure” means any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in

states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

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

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

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

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

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

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

“Special Flood Hazard Area” is the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. For purposes of these regulations, the term “area of special flood hazard” is synonymous in meaning with the phrase “special flood hazard area”. This area is usually labeled Zone A, AO, AH, AE, or A1-30 in the most current flood insurance studies and on the maps published by the

Federal Emergency Management Agency. Maps of this area are available for viewing in the municipal office or online from the FEMA Map Service Center: msc.fema.gov Base flood elevations have not been determined in Zone A where the flood risk has been mapped by approximate methods. Base flood elevations are shown at selected intervals on maps of Special Flood Hazard Areas that are determined by detailed methods. Please note, where floodways have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps.

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

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

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

“Substantial improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of this bylaw, the cost of which, over three years, or over a the period of a common plan of development, cumulatively equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

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

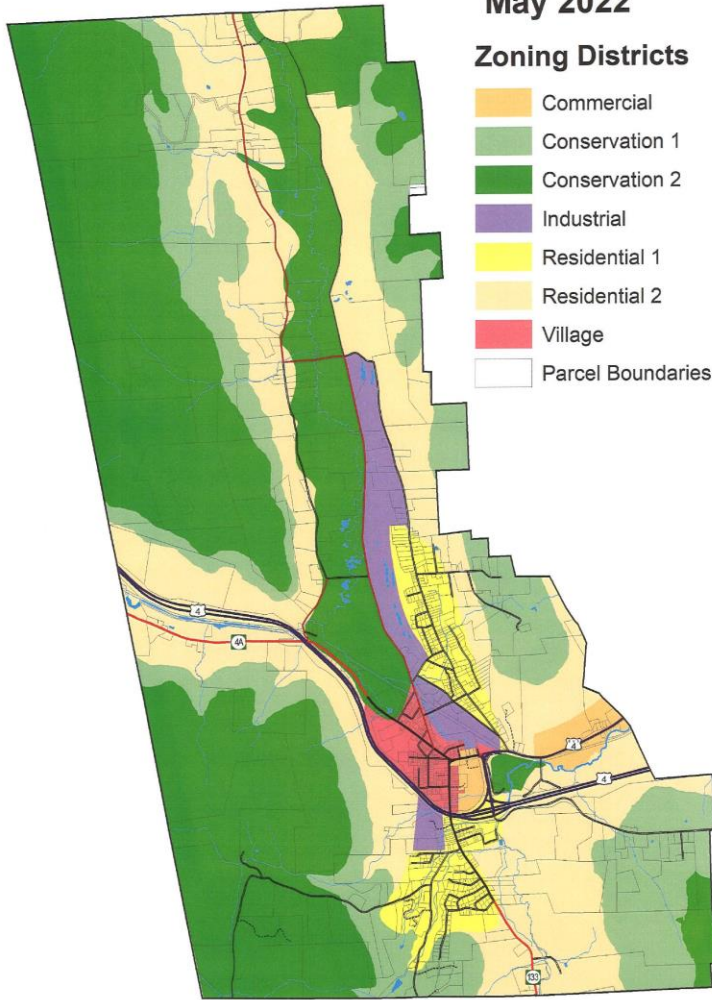
ATTACHMENT B

WEST RUTLAND

**Draft
May 2022**

Zoning Districts

-  Commercial
-  Conservation 1
-  Conservation 2
-  Industrial
-  Residential 1
-  Residential 2
-  Village
-  Parcel Boundaries



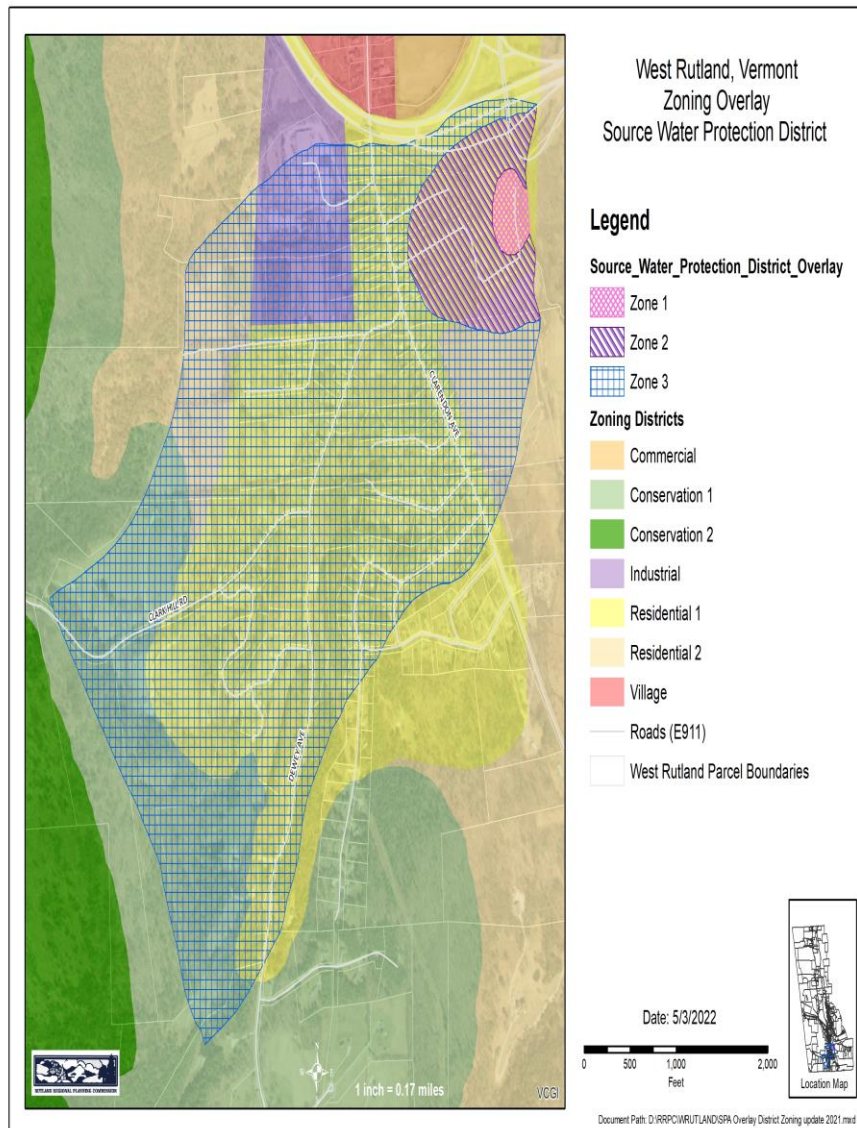
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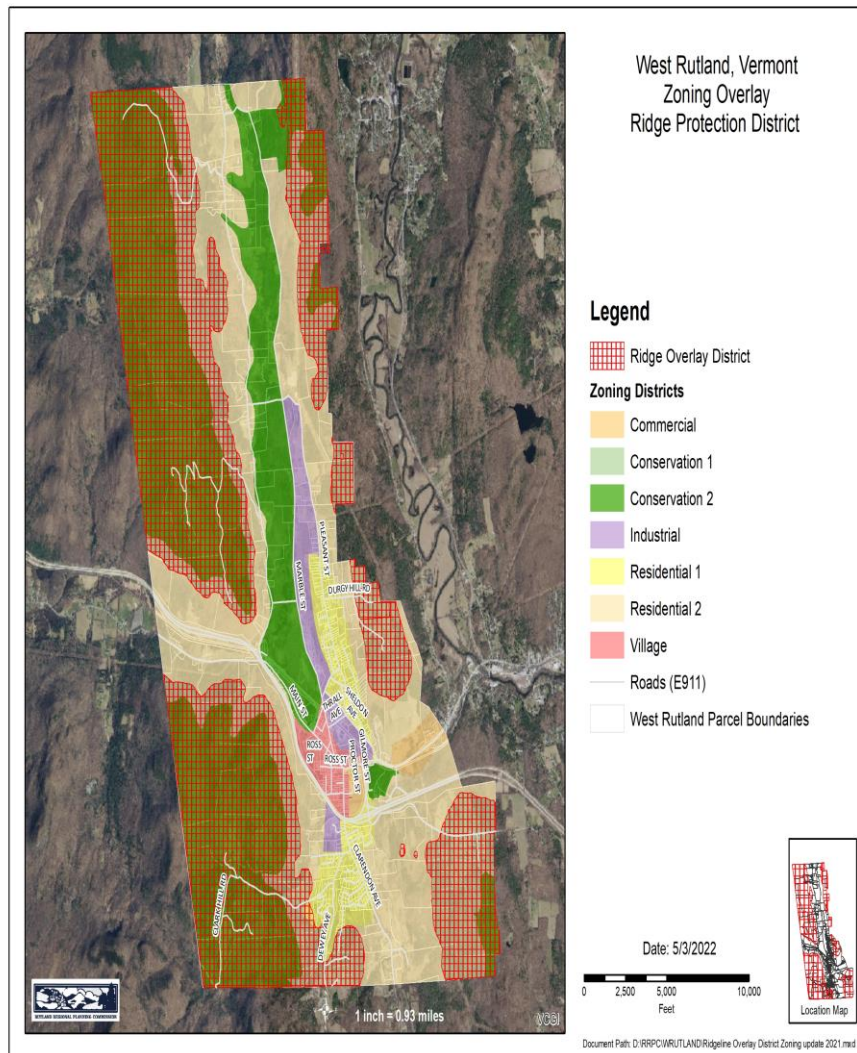
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Map created October 28, 2021

THIS MAP IS FOR PLANNING PURPOSES ONLY.

ATTACHMENT C



ATTACHMENT D



ATTACHMENT E to TOWN OF WEST RUTLAND VT ZONING REGULATIONS

REQUEST FOR CERTIFICATE OF OCCUPANCY (CO)
802 438-2204 X 16 zoning@westrutlandvt.org

Purpose of this Form: Section 1107 of Town Zoning (posted at www.WestRutlandVT.Org) require that the Property Owner attest to the fact that a Project approved by a Zoning Permit has been completed, and the property is in full compliance with the details or parameters of the applicable approved permit. **Failure to submit this (completed) form before occupying or using a structure is a violation of Town and VT regulations.**

Property Owners Name: _____ Phone: _____

Email Address: _____ Property Tax Map #: _____

Mailing Address: _____ City: _____ Zip Code: _____

Physical Address of property _____

A Town CO will not be issued unless the following requirements are complete (w/documents attached to this Form):

1. A completed/signed VT Residential or Commercial Building Energy Standard Certificate for any projects that involved the construction/remodeling of a heated/cooled structure.
2. A VT E-911 address number has been installed at an easily visible location at the property's entrance.
3. Copies of all applicable VT Department of Public Safety CO's issued for the commercial/rental use of a property.

I, _____, certify that all Construction and/or Change(s) of Use has been completed as approved and all conditions have been complied with in regards to Permit # _____ which was issued on _____ and I hereby request that a FINAL Certificate of Occupancy/ Compliance be issued. I understand that any incorrect or misleading statements or representations, intentional or otherwise made to the Zoning Administrator and reasonably relied upon to issue this Certificate may be cause for the Certificate to be declared null and void and the potential basis for legal action to require the full compliance with the requirements and conditions of the issued permit or the return of the parcel to its prior condition. I agree to allow relevant Town personnel access to the property for inspection purposes.

Owner's Signature: _____ Date: _____

For Administrative Use Only :

CO Request received by ZA on: _____

Based upon the representations contained herein this Certificate of Occupancy is hereby
Granted: _____ Denied: _____ Reasons for Denial: _____

By: _____, Zoning Administrator Date: _____

A copy of this form and applicable (approved) Zoning permit will be maintained in the Zoning departments Office files.

TO APPEAL THIS DECISION: An interested person may appeal any decision by the Administrative Officer to the Development Review Board in accordance with 24 VSA, Chapter 117, §4465, in writing, within 15 days of the date of such decision. The fee is \$250. An interested person who has participated in the municipal regulatory proceeding may appeal the decision rendered in that proceeding by the appropriate municipal panel (Development Review Board) to Environmental Court in Accordance with 24 VSA, Chapter 117, §4471, in writing, within 30 days of the date of the DRB's decision. The fee is \$250. If you fail to appeal a decision, your right to challenge the decision at some future time may be lost because you waited too long. You will be bound by the decision, pursuant to 24 V.S.A. §4472(d).

Commented [SS385]: Do not include application form in regulations. PC could otherwise amend the form without going through the onerous bylaw amendment process that will be triggered if the actual form is included here. Just list required contents for application above (general application section) and leave it up to the PC to create the applications.