TOWN OF ENOSBURGH

DEVELOPMENT BYLAW

Adopted by the Select Board May 6, 2013
Effective May 27, 2013

Prepared by the Enosburgh Planning Commission
with assistance from Northwest Regional Planning Commission.

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Article 1. Authority and Purpose

Section 1.1: Statutory Authorization and Enactment

In accordance with Vermont law, specifically the Vermont Planning and Development Act, Title 24 V.S.A Chapter 117, there is adopted and enacted this unified bylaw, The Enosburgh Development Bylaw, for the Town of Enosburgh, Vermont. This bylaw amends, by replacing in their entirety as of the date this bylaw takes effect, the "Enosburgh Zoning Bylaws" last adopted August 3, 2007 and the "Enosburgh Subdivision Regulations."

Text Box 1.1

The Act
Local land use regulations in Vermont are governed by a state law, the Vermont Planning and Development Act, found in Title 24 V.S.A Chapter 117. In this bylaw, it will be referred to as 'the Act.'

Section 1.2: Purpose

The purpose of this bylaw is to implement the Enosburgh Town Plan and to carry out the overall goal of that plan which is to "maintain agricultural and scenic resources, protect working farms and managed forests from sprawl and fragmentation of land, and encourage development on a scale appropriate to maintain the rural character of the community."

This bylaw also furthers the purposes of the Vermont Planning and Development Act, Title 24 V.S.A Chapter 117 (the Act) to promote the health, safety and general welfare of the inhabitants of Enosburgh, Vermont.

Section 1.3: Applicability

Except as otherwise provided in this bylaw, no development may be undertaken or effected except in conformance with this bylaw, and no person shall commence development within the Town of Enosburgh except in conformance with this bylaw.

This bylaw shall not restrict accepted agricultural or farming practices, or accepted silvicultural practices, including the construction of farm structures, as such practices are defined by the secretary of agricultural, food and markets or the commissioner of forests, parks, and recreation under sections 1021(f) and 1259(f) of Title 10, and section 4810 of Title 6, respectively, of Vermont Statutes Annotated as from time to time amended.

This bylaw shall not repeal, abrogate or impair any other applicable land use controls (including statutes, regulations, rules, ordinances, permits, easements, deed restrictions, covenants or similar devices). However, the provisions of this bylaw shall be minimum requirements that shall take precedence over any less restrictive such controls.

Section 1.4: Definitions

Unless defined in Article 11 or elsewhere in this bylaw, all words shall carry their customary meaning; any interpretation of words or terms in these regulations by the Zoning Administrator may be appealed to the DRB for a declaratory ruling.

Section 1.5: Severability

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

Section 1.6: Amendment and Effective Date

This bylaw was adopted May 6, 2013 and takes effect May 27, 2013 (21 days after adoption) and shall be amended only according to the procedures and requirements set out in the Act.

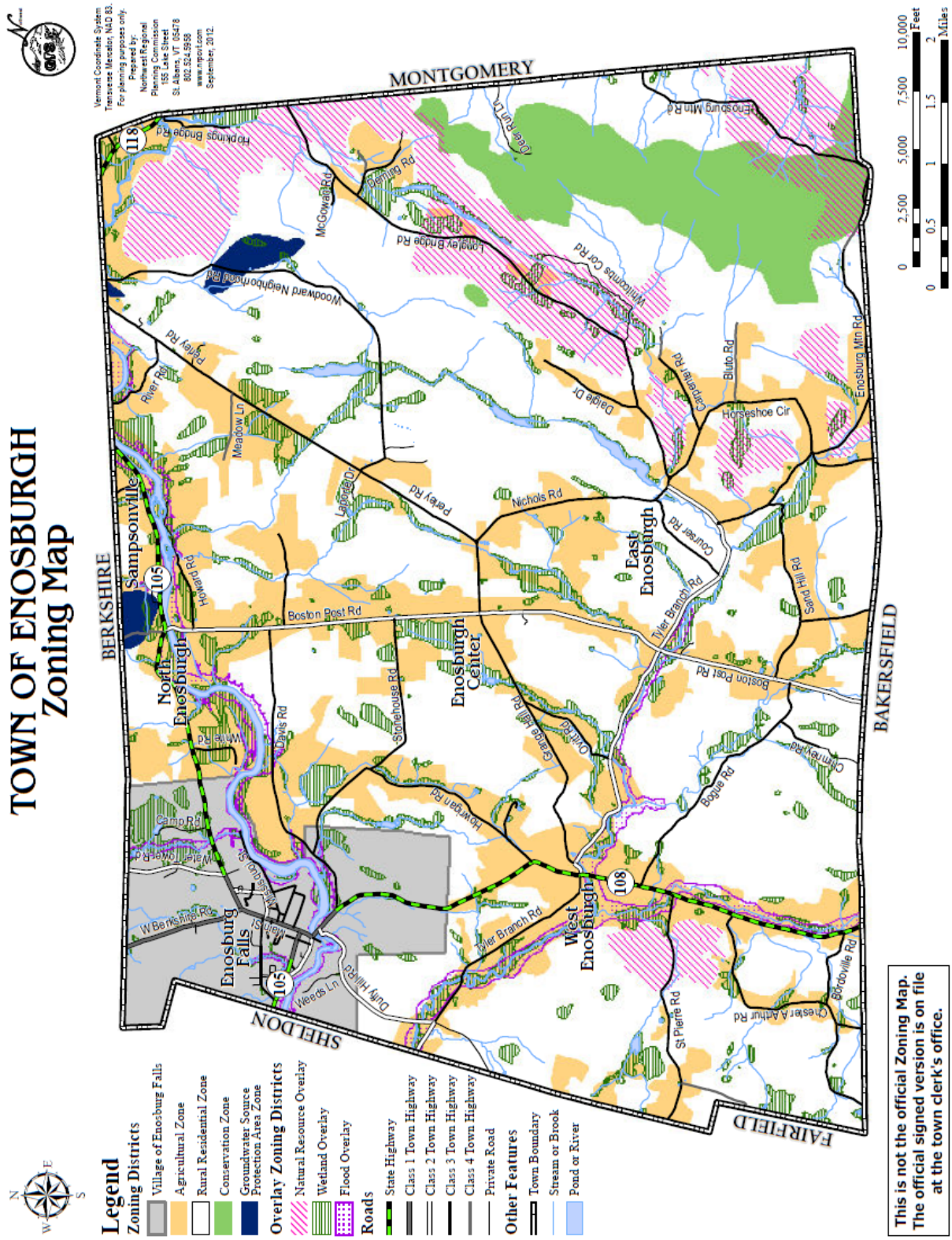
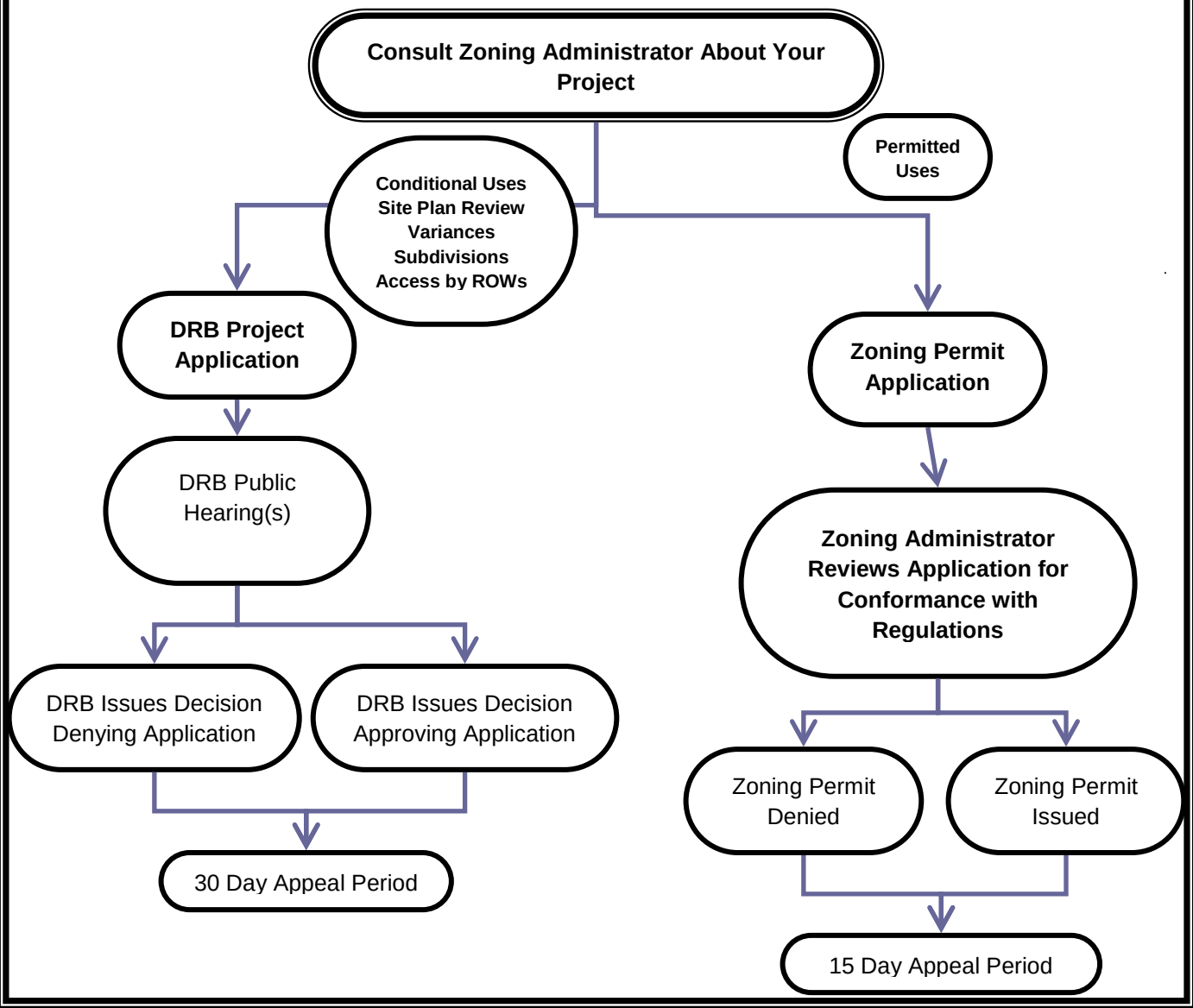

TOWN OF ENOSBURGH
Zoning Map
Legend
Zoning Districts
Village of Enosburg Falls
Agricultural Zone
Rural Residential Zone
Conservation Zone
Groundwater Source Protection Area Zone
Overlay Zoning Districts
Natural Resource Overlay
Wetland Overlay
Flood Overlay
Roads
State Highway
Class 1 Town Highway
Class 2 Town Highway
Class 3 Town Highway
Class 4 Town Highway
Private Road
Other Features
Town Boundary
Stream or Brook
Pond or River
MONTGOMERY
BERKSHIRE
SHELDON
FAIRFIELD
BAKERSFIELD
Sampsonville
North Enosburgh
Enosburg Falls
Enosburgh Center
East Enosburgh
West Enosburgh
Boston Post Rd
Tyler Branch Rd
Nichols Rd
Parley Rd
Dale Dr
Horseshoe Cir
Bluto Rd
Enosburg Mtn Rd
Sand Hill Rd
Bogue Rd
Stonehouse Rd
Davis Rd
Howard Rd
Meadow Ln
River Rd
Hopkings Bridge Rd
McGowan Rd
Woodward Neighborhood Rd
Lansley Bridge Rd
Whitcombs Cor Rd
Carpenter Rd
Courser Rd
Gage Hill Rd
Hogan Rd
Camp Rd
W Berkshire Rd
Weeds Ln
Duby Hill Rd
St Pierre Rd
Chester A Arthur Rd
Bridgeville Rd
Vermont Coordinate System
Transverse Mercator NAD 83.
For planning purposes only.
Prepared by:
Northwest Regional
Planning Commission
155 Lake Street
St. Albans, VT 05478
802 524 5958
www.nrpc.org
September, 2012.
0 2,500 5,000 7,500 10,000 Feet
0 0.5 1 1.5 2 Miles
This is not the official Zoning Map.
The official signed version is on file
at the town clerk's office.

Figure 1.1 How to Get a Zoning Permit: At a Glance



Text Box 1.2 Important Abbreviations

DRB: DRB
The Act: The Vermont Planning & Development Act, 24 VSA, Chapter 117
VSA: Vermont Statutes Annotated
Bylaw: The Enosburgh Development Bylaw
ZA: Zoning Administrator
PUD: Planned Unit Development
ROW: Right-of-Way

Article 2. Zoning Districts and District Standards

Section 2.1: Establishment of Zoning Districts and Official Map

For the purposes of this bylaw, the Town is divided into a number of zoning districts specifying types of uses and buildings and other structures that are allowed in each district as either "permitted" or "conditional."

"Permitted" uses are uses allowed in a given zoning district without special review because they are considered compatible with the intent of the district. A zoning permit from the zoning administrator is needed. The buildings or structures that contain the uses, and the site development necessary for their establishment, must meet the development regulations and site plan review requirements in these bylaws.

"Conditional" uses are land uses that have potential for causing adverse impacts on other uses because of such factors as location, method of operation, scale or intensity of activity, or traffic generated. As a consequence, they require special review in which conditions may be imposed to insure compatibility, and conditional use approval from the DRB (DRB) must be obtained before a conditional use is established. Conditional uses may be denied if it is not possible to mitigate adverse impacts.

Uses not allowed are land uses that cannot be established in a given zoning district because they are considered incompatible with the intent of the district.

The purpose and intent of this division of the Town into a number of zoning districts is to ensure compatibility of land uses and promote efficient and economical use of land in development projects, to prevent development of areas subject to environmental hazards and constraints, and to encourage development projects that are functional and protect the Town's agricultural lands, natural resources, and scenic beauty.

The zoning districts have been divided into two categories, basic districts and overlay districts, both of which are considered zoning districts for the purposes of this bylaw.

Table 1.1 Zoning Districts

DISTRICT NAME	ABBREVIATION
Village of Enosburg Falls	EF
Agricultural	A
Rural Residential	RR
Conservation	CON
Ground Source Protection Area	GSP
Natural Resource Overlay	NRO
Wetland Overlay	WO
Flood Hazard Overlay	FHO

Applicants are encouraged to utilize the online mapping tool available at http://www.enosburghvermont.org/Maps/TownMap.php for information about the location of zoning districts and property boundaries.

The locations of the zoning districts are also shown on the Official Zoning Map, which is adopted by reference and declared to be part of this bylaw, and which is the final authority as to the zoning status of all land and water areas in the Town. The location of the Flood Hazard Overlay district are those areas within the areas of 100-year flood (special flood hazard areas – Zone A) shown on the National Flood Insurance Program Flood Insurance Rate Maps (FIRM) of the Town of Enosburgh effective January 2, 1981 as revised. The said FIRM are incorporated herein by reference to form part of this bylaw. The location and boundaries of the Flood Hazard Overlay District are shown on the Zoning Map, however the FIRM maps are the final authority as to boundary locations.

The signature of the Planning Commission Chairperson and the Selectboard Chair, attested by the Town Clerk, shall identify the Official Zoning Map, and it shall be located in the Town Clerk's Office. No changes of any nature shall be made on the Official Zoning Map except in conformance with the zoning amendment procedures of the Act.

The Flood Hazard Overlay District, Natural Resources Overlay and Wetland Overlay districts are superimposed on the other districts and uses are as allowed in the underlying district unless explicitly noted.

Section 2.2: Interpretation of Zoning District Boundaries

A) Where a zoning district boundary divides a lot, the Zoning Administrator or DRB may permit the extension of the regulations for either portion of the lot, not to exceed 50 feet beyond the zoning district boundary into the remaining portion of the lot.

B) Any interpretation of zoning district boundaries by the Zoning Administrator may be appealed to the DRB.

C) When a lot bisects two zoning districts, the development must meet the regulations for the district in which the development will occur.

Section 2.3: Application of District Standards

A) VILLAGE OF ENOSBURG FALLS DISTRICT

Objective: To designate a growth center for the town of Enosburgh. The village of Enosburgh Falls has developed a separate Village Plan and Village By-laws, which will be referred to for all regulations within the village limits.

B) AGRICULTURE DISTRICT

Objective: Maintain and enhance opportunities for agriculture in key areas of Enosburgh. Protect the long term viability of productive farmland in the Town of Enosburgh. Protect prime agriculture soils as mapped by the U.S. Natural Resources Conservation Service (NRCS). Mitigate any adverse effects of development on farmland operations. Minimize the fragmentation of productive farmland. All allowable uses are shown in Table 2.1. In addition:

1) Allowable Principal and Accessory Uses listed in Table 2.1 are required to obtain a zoning permit, may require site plan approval under Section 3.4 and/or conditional use approval under Section 3.3 and must meet dimensional requirements in Table 2.2.

2) Non-agricultural development in this district including single family dwellings, other principle structures, accessory structures and parking areas must be meet the following standards:

   a) Sited on or at field-woodland edges to minimize the fragmentation of productive farmland, adverse impacts to farmland operation, and adverse visual effects to the scenic qualities of the site.

   b) No more than 50% of the land in agricultural production on a parcel may be developed.

   c) To minimize the fragmentation of productive farmland, proposed access roads, driveways and utility corridors in this district, to the extent feasible shall: share right of ways, avoid crossing open farm fields, follow existing linear features such as utility corridors, farm roads, field edges, tree lines, stone walls, and or fence lines.

3) The DRB may:

   a) Limit the extent of clearing and disturbance, including the removal of existing vegetation for development other than agriculture or Forestry;

   b) Require fencing, screening, and /or vegetative buffer zones between non-agricultural and existing agricultural operations; and/or

   c) Require the submission of environmental, agricultural, or visual impact assessments for review and approval.

C) RURAL RESIDENTIAL DISTRICT

Objectives: Allow for residential and compatible uses at a density these lands can support in accordance with the goals and policies of Town Plan. Protect those areas which are used for agriculture; of top concern is the protection of prime agricultural soils. Large contiguous open space will be protected for farming and pockets of housing will occur in less productive areas. Growth will occur at low density or in clusters away from the prime agricultural soils or, if necessary, with the minimum loss of this critical resource.

1) Allowable Principal and Accessory Uses listed in Table 2.1 are required to obtain a zoning permit, may require site plan approval under Section 3.4 and/or conditional use approval under Section 3.3 and must meet dimensional requirements in Table 2.2.

2) Development proposals that include new roads and driveways of greater than 800 feet require conditional use review under Section 3.3. The DRB may impose conditions to ensure there is no undue adverse impact on surface waters, wetlands, significant wildlife habitat, wildlife travel corridors and productive forestry and agricultural lands. Conditions may include limiting the length of the road or driveway, requiring relocation to other areas of the parcel or limiting the scale of the road.

D) GROUND WATER SOURCE PROTECTION AREA DISTRICT

Objective: Protect the source of water for the East Berkshire Water COOP, an area around a spring off the Woodward Neighborhood Road in the northeast corner of Enosburgh, which has been designated as a "Groundwater Source Protection Area" by the State of Vermont. This district also includes an area in Northwest Enosburg which is a water recharge area for the village of Enosburg Falls.

1) Allowable Principal and Accessory Uses listed in Table 2.1 are required to obtain a zoning permit, may require site plan approval under Section 3.4 and/or conditional use approval under Section 3.3 and must meet dimensional requirements in Table 2.2.

E) CONSERVATION DISTRICT

Objectives: Protect pristine and sensitive areas that are primarily used for forestry and outdoor recreation from the adverse effects of development and growth. Allow other uses with conditions, including camps and other compatible recreation uses at a density these areas can support in accordance with the Town Plan. Maintain large tracts of forest, protect significant wildlife habitat, and ensure connectivity between habitats.

The Conservation District is identified by all areas that are at an elevation of 1,500 feet or greater.

1) Allowable Principal and Accessory Uses listed in Table 2.1 are required to obtain a zoning permit, may require site plan approval under Section 3.4 and/or conditional use approval under Section 3.3 and must meet dimensional requirements in Table 2.2.Conditional Uses reviewed under Section 3.3 will be subject to additional environmental review in Section 3.3(F).

2) New roads and driveways over 800 feet are prohibited in the Conservation District.

F) NATURAL RESOURES OVERLAY

Objectives: Protect the scenic and natural resource values of lands which are important for wildlife and wildlife habitat, and which are poorly suited for development because of their environmental constraints. Maintain large tracts of forest, protect significant wildlife habitat, and ensure connectivity between habitats. Land uses and development in this district will be planned and designed to be compatible with the surrounding characteristics of the landscape, to be harmonious with wildlife habitat and the species that depend on this habitat and recognize and protect the full range of vegetative and animal habitats and species in the Town. The district includes areas which have significant geologic features, unusual or important plant and animal qualities of scientific, ecological or educational interest, steep slopes, waterways and significant wildlife habitat.

The GIS data provided by the Northwest Regional Planning Commission in the Town of Enosburgh's Land Use Map and the Critical Areas Map, as presented in the Town Plan are the basis for the Natural Resource Overlay district and provide information that can be used in conjunction with more specific data about wildlife habitat, steep slopes, and surface waters, including information published in the Open Space and Natural Resource Assessment, Enosburgh, Vermont. It also

establishes an information base and a process of protecting areas from significant adverse effects of development, and to evaluate the impact of specific land use and development proposals with environmental constraints.

Applicability: The Natural Resources Overlay District includes all lands located within and contiguous to the perimeter of areas identified on the Towns Critical Area Map and Land Use Map, and all lands with a slope of 15% or greater.

1) Allowable Principal and Accessory Uses listed in Table 2.1 are the same as those shown in the underlying district. Conditional Uses reviewed under Section 3.3 will be subject to additional environmental review in Section 3.3(F).

2) New roads and driveways over 800 feet are prohibited in this district unless the DRB, through a Waiver in Section 3.6 determines that the longer road/driveway length is necessary because: a. there is no other way to provide access to development on the property or b. the longer length is necessary in order to avoid adverse impacts on surface waters, wetlands, significant wildlife habitat, wildlife travel corridors and productive forestry and agricultural lands. If allowed, the DRB may impose conditions to ensure there is no undue adverse impact on surface waters, wetlands, significant wildlife habitat, wildlife travel corridors and productive forestry and agricultural lands. Conditions may include limiting the length of the road or driveway, requiring relocation to other areas of the parcel or limiting the scale of the road.

3) Any new use or structure in this district proposed on a lot greater than 50 acres in size requires Site Plan review under Section 3.4.

G) WETLAND OVERLAY

Objective: Identify and protect wetlands of public significance and the values and functions which they serve in such a manner that the goal of no net loss of such wetlands and their functions is achieved. Protect the natural system functions (e.g. water and air purification flood attenuation speciation and nutrient cycling) that are critical to the support of human, animal and plant populations in the Town of Enosburgh. When the regulations of the wetland overlay district and the basic district conflict, the more restrictive provision shall apply. The Wetland Overlay district is intended to alert property owners and developers to issues they need to address in preparing an application for development.

1) **Location:** The Wetland Overlay District shown on the official zoning map includes a) all lands located within the perimeter of wetlands identified on the National Wetlands Inventory (NWI) maps published by the U.S. Fish and Wildlife Service, b) all wetlands identified on the Enosburgh Wetlands map published in Open Space and Natural Resources Assessment, Enosburgh, Vermont prepared by Arrowwood Environmental; and c) all lands 50 feet of the perimeter of wetlands contiguous to such mapped wetlands.

2) All applications for land development within the Wetland Overlay District must include a Conditional Use Determination (wetland permit) from the Vermont Agency of Natural Resources or a determination by the Vermont Agency of Natural Resources that a Conditional Use permit is not necessary. All development applications in the Wetland Overlay District must comply with the conditions set by any state Conditional Use Determination.

H) FLOOD HAZARD OVERLAY DISTRICT

OBJECTIVE: To minimize and prevent 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 service that result from flooding. To ensure that the design and construction of development in flood hazard areas are accomplished in a manner that minimizes or eliminates the potential for flood and loss or damage to life and property. To encourage the maintenance of flood hazard areas as open space that will complement the use and development of adjacent areas, as provided for in the Enosburgh Town Plan. To manage all flood hazard areas designated pursuant to 10 V.S.A) 753. To make the Town of Enosburgh eligible for federal flood insurance and other federal disaster recovery and hazard mitigation funds as may be available.

1) This district is an overlay district and shall be superimposed on the other districts established by this bylaw. Where the provisions of the underlying district conflict or differ from those of this district, the more restrictive shall govern.

2) All development in the Flood Hazard Overlay must comply with the requirements of Article 9.

Section 2.4: Zoning District Uses

Table 2.1 Town of Enosburgh: Zoning District Uses

P = Permitted (Section 3.2) **E** = Exempt from Permits (Section 2.5)
C = Conditional (Section 3.3) **S** = Site Plan Review (Section 3.4)

A= Agriculture **RR**=Rural Residential **CON**= Conservation **GSP**= Ground Source Protection	**A**	**RR**	**CON**	**GSP**
Agriculture, Forestry and Conservation Uses				
Agricultural Use and Agricultural Structures *also called* Agriculture Farming and Farm Structure	E	E	E	E
Conservation	E	E	E	E
Forestry	E	E	E	E
Recreation Uses				
Campgrounds (Section 5.2)	C/S	C/S		
Indoor and Outdoor Recreation	C/S	C/S		
Outdoor Recreation (no roads or structures)	P	E	E	E
Outdoor Recreation (structures and roads)	C	C	C	C

A= Agriculture **RR**=Rural Residential **CON**= Conservation **GSP**= Ground Source Protection	**A**	**RR**	**CON**	**GSP**
P = Permitted (Section 3.2) **E** = Exempt from Permits (Section 2.5) **C** = Conditional (Section 3.3) **S** = Site Plan Review (Section 3.4)				
Residential Uses				
Accessory Dwelling (Section 5.1)	P	P		P
Camps	C	P	C[1]	
Multi family dwelling, including Two family dwelling	C	C		
Planned Unit Development (residential)		P		
Planned Unit Development (non-residential)		C		
Mobile Home Parks (Section 5.5)		C		
Single family dwelling	P	P		P
Daycare facilities or group home (8 or less), as part of single family dwelling	E	E	E	E
Commercial Uses				
Accessory Use	C	P		
Accessory Structure (Also called Accessory use structures)	C	P	C	C
Small Accessory Structure (Section 2.5 A 11)	E	E	E	E
Commercial Facilities		C/S		
Daycares		C/S		
Home occupation (Section 5.4)	P	P		P
Lodging Establishments with ten or fewer units	C/S	C/S		
Nursing Home (community care facility)		C/S		
Professional Services	P/S	P/S		C
Industrial Uses				
Excavating and land-filling (Section 5.3)	C/S	C/S		
Light Industry	C/S	C/S		

A= Agriculture **RR**=Rural Residential **CON**= Conservation **GSP**= Ground Source Protection	**A**	**RR**	**CON**	**GSP**
P = Permitted (Section 3.2) **E** = Exempt from Permits (Section 2.5) **C** = Conditional (Section 3.3) **S** = Site Plan Review (Section 3.4)				
Public Uses				
Community Facilities		C/S		
Other Uses				
Commercial Telecommunications (Section 5.7)		C		
Group Home (9 or more)		C/S		
Public Service or Utility (also called public service, or utility or facility and Essential public service, utility or facility)	C	C		
Temporary Uses and structures (also called Temporary use structures)		P	C	C
Wind Turbines (1, less than 120 ft tall, <100KW) (Section 5.8)	E	E		C

The Flood Hazard Overlay, Natural Resources Overlay and Wetland Overlay districts are superimposed on the other districts and uses are as allowed in the underlying district unless explicitly noted.

[1] Camps in the Conservation District are limited to 900 square feet or less, no more than 20 feet in height, and porches or decks may not be larger than 20% of the size of the footprint of the dwelling portion of the camp.

Section 2.5: Exemptions

A) No zoning permit or approval by the DRB under this bylaw shall be required for the following activities:

1) Accepted agricultural and best management practices (AAPs and BMPs), including farm structures, as defined by the Secretary of Agriculture, Food and Markets, in accordance with the Act. Written notification, including a sketch plan showing structure setback distances from road rights-or-way, property lines, and surface waters shall be submitted to the Zoning Administrator prior to any construction, as required for AAPs. Such structures shall meet all setback requirements under these regulations, unless specifically waived by the Secretary.

2) Accepted management practices (AMPs) for forestry (silviculture) as defined by the Commissioner of Forests, Parks and Recreation, in accordance with the Act.

3) Power generation and transmission facilities, which are regulated by the Vermont Public Service Board. Such facilities, however, should conform to policies and objectives specified for such development in the Town Plan.

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 this bylaw are mixed recreational uses.
5) Normal maintenance and repair of an existing structure which do not result in exterior alterations or expansion or a change of use.

6) Interior alterations or repairs to a structure that do not result in exterior alterations or expansion or a change in use.

7) Exterior alterations to structures that do not result in any change to the footprint or height of the structure or a change in use.

8) Residential entry stairs (excluding decks and porches), handicap access ramps, walkways, and fences or walls less than 6 feet in height which do not extend into or obstruct public rights-of-way, or interfere with corner visibilities or sight distances for vehicular traffic).

9) Minor grading and excavation associated with road and driveway maintenance (e.g., including culvert replacement and resurfacing), and lawn and yard maintenance (e.g., for gardening or landscaping), or which is otherwise incidental to an approved use.

10) 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) Small accessory buildings associated with residential uses that are less than 80 square feet of floor area and less than 10 feet in height, and are not located within required setback areas.

12) Accessory structures not subject to site plan and conditional use approval, and with a floor area of not more than 100 square feet and a height of not more than 10 feet, or an above-ground swimming pool with a diameter of 15 feet or less and a maximum depth of water of 3 feet or less, shall not require a zoning permit.

13) Garage sales, yard sales, auctions, or similar activities that do not exceed 3 consecutive days, nor more than 12 total days in any calendar year.

Section 2.6: Dimensional Standards

Table 2.2 Town of Enosburgh: Zoning District Area and Dimensional Requirements

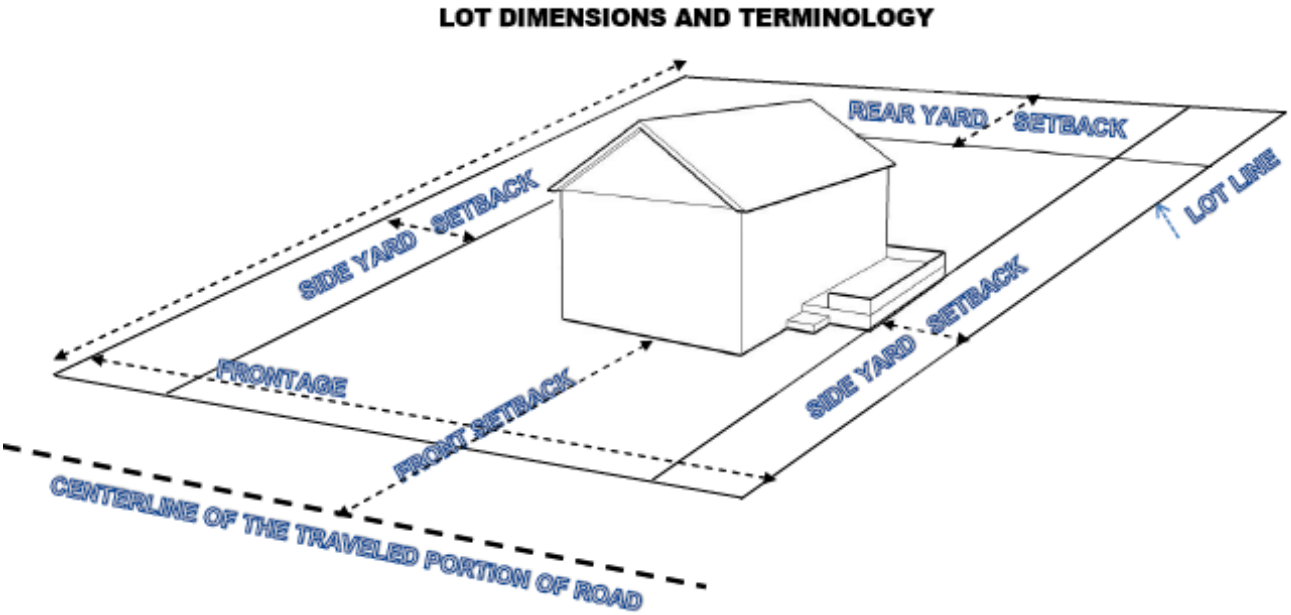
For all overlay districts the area and dimensional requirements are as set by the underlying zoning district unless superseded by other requirements of these bylaws.

R= Residential C= Commercial I= Industrial PS= Professional Services

	A	**RR**	**CON**	**GSP**
Lot size, minimum	R/PS uses: 1 acre	R/PS uses: 1 acre	25 acres	1 acre
	C/I uses: 5 acre	C/I uses: 5 acre		
Frontage, minimum	200 ft	200 ft	300 ft (c)	200 ft
Side yard setback, minimum	R/PS uses: 25 ft	R/PS uses: 25 ft	75 ft	75 ft
	C/I uses: 50 ft	C/I uses: 50 ft (b)		
Rear yard setback, minimum	R/PS uses: 15 ft	R/PS uses: 15 ft	75 ft	75 ft
	C/I uses: 50 ft	C/I uses: 50 ft (b)		
Front yard setback, minimum	R uses: 40 ft	R uses: 40 ft	50 ft	50 ft
	C/I /PS uses: 75 ft	C/I/PS uses: 75 ft (b)		
Small Accessory Structure Setback (d)	5 ft	5 ft	5 ft	5 ft
Lot width, minimum	(a)	(a)	(c)	(c)
Principal building height, maximum	35 ft	35 ft	20 ft	35 ft

a. Minimum lot width shall never be less than 100 feet or one half of the lot depth, whichever is greater, except where expressly permitted by the DRB.
b. For industrial lots abutting any residential use, the minimum side and rear yard setbacks shall be 100 feet from an adjoining property.
c. Minimum lot width shall never be less than 300 feet or one half of the lot depth, whichever is greater, except where expressly permitted by the DRB.
d. The required setback for accessory structures with an area of not more than 100 square feet and a height of not more than 10 feet, or an above-ground swimming pool with a diameter of 15 feet or less and a maximum depth of water of 3 feet or less, shall be five feet.

Figure 2.1 Lot Dimensions and Terminology



Article 3. Development Review

Section 3.1: General

A) Commencement of Land Development. It shall be the responsibility of the landowner (or an authorized agent) to obtain the zoning permits required by this bylaw prior to the commencement of any land development. No use, whether principal or accessory, of land or of any building or other structure is allowed, nor may the use of any land or of any building or other structure be changed, extended, increased, intensified, or enlarged, except in conformity with the provisions of this bylaw, nor, except as otherwise provided, until a zoning permit has been issued by the Zoning Administrator and site plan or conditional use approval, or both, by the DRB has been obtained.

No building or other structure, whether principal or accessory, is allowed, nor may the construction, reconstruction, replacement, conversion, structural alteration, relocation, or enlargement of any building or other structure be commenced, except in conformity with the provisions of this bylaw, nor, except as otherwise provided, until a zoning permit has been issued by the Zoning Administrator and site plan or conditional use approval, or both, by the DRB has been obtained.

B) Limitations on Permits. A limit of 15 new single family dwelling units per calendar year is hereby established for the Town of Enosburgh. Up to five unused annual permits shall be added to the following calendar year, but in no case shall more than 20 total permits be available in any given year. The following types of housing, PUD projects, Farm Labor Housing, and Accessory Dwelling Units, are exempt from the 15 dwelling unit permit cap. The number of dwelling units may be revised with the development of a Growth Management Plan. Allocation of these units will be done in a fair and equitable manner by a policy as established in these by-laws. (see ADDENDUM #1)

C) Use Types. The uses and the buildings and other structures that are allowed are either "permitted" or "conditional":

1) Allowed uses and buildings and other structures that are "permitted" require a zoning permit.
2) Allowed uses and buildings and other structures that are "conditional" require review and approval by the DRB under Section 3.3 of this bylaw, and a zoning permit.
3) Whether "permitted" or "conditional", an allowed use may require site plan review and approval by the DRB under Section 3.4 of this bylaw.

The classes and types of uses and structures allowed in each zoning district, and whether they are "permitted" or "conditional" in that district, are set out in Section 2.4.

The requirements in each zoning district with respect to bulk, dimensions, height, area, yards, and density are set out in Section 2.6.

Section 3.2: Zoning Permits and Approvals

A) Procedure

1) **Application Requirement.** An application for a zoning permit or for an approval by the DRB shall be made on form(s) provided by the Town, and filed with the Zoning Administrator.

Required application fees, as set by the Select Board, shall be submitted with each application at the time of filing. The following additional information will be required as applicable:

a) **For Permitted Uses.** Applications for a permitted use shall include a sketch plan, no smaller than 8.5" x 11", drawn to scale, that depicts the following:

i) The dimensions of the lot, including existing property boundaries;

ii) The location, footprint and height or existing and proposed structures or additions;

iii) The location of existing and proposed accesses (curb cuts), driveways and parking areas;

iv) The location of existing and proposed easements and rights-of-way;

v) Existing and required setbacks from property boundaries, road rights-of-way, surface waters and wetlands;

vi) The location of existing and proposed water and wastewater systems; and

vii) Other such information as required by the Zoning Administrator to determine conformance with this bylaw.

b) **For Uses Subject to Conditional Use and/or Site Plan Review.** For development requiring one or more approvals from the DRB prior to the issuance of a zoning permit, application for such approvals and required application fees shall be submitted concurrently with the application for a zoning permit for referral to the DRB.

c) **For Flood Hazard Area Review.** Any application for development within the Flood Hazard Area Overlay District shall include copies of application information as required for referral to the Vermont Agency of Natural Resources, in accordance with the Act.

d) **For all uses requiring a new curb cut.** A curb cut application for access onto public highways is required. For local roads, the application must be reviewed by the Road Commissioner and approved by the Selectboard; for state routes the application must be approved by the State of Vermont. .

B) Issuance

1) A zoning permit shall be issued by the Zoning Administrator only in accordance with the Act and the following provisions:

a) Within 30 days of receipt of a complete application, including all application materials and required fees, the Zoning Administrator shall act to either issue or deny a zoning permit in writing, or to refer the application to the DRB and/or the state for consideration. In accordance with the Act, if the Zoning Administrator fails to act within the 30-day period, a permit shall be deemed issued on the 31st day.

b) No zoning permit shall be issued by the Zoning Administrator for any use or structure that requires the approval of the DRB or the Select Board until such approval has been obtained. For permit applications that must be referred to a state agency for review, no zoning permit shall be issued until a response has been received from the state, or the expiration of 30 days following the submission of the application to the state.

c) If public notice has been issued by the Select Board for their first public hearing on a proposed amendment to this bylaw, for a period of 150 days following that notice the Zoning Administrator and the DRB shall review any new application filed for compliance with both the proposed amendment and this bylaw. 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 application shall be reviewed under this bylaw.

d) A zoning permit shall include a statement of the time within which appeals may be taken under Section 840; and shall require posting of a notice of permit by the applicant, on a form prescribed by the Town, within view of the nearest public right-of-way until the time for appeal has expired. If the permit sign is not posted it may be considered a violation subject to fines per Section 10.4.

e) The Zoning Administrator, within 3 days of the date of issuance, shall deliver a copy of the zoning permit to the Listers; and shall post a copy of the permit in the Town Clerk's Office for a period of 15 days from the date of issuance.

f) Any zoning permit or approval issued based on material inaccuracies or misrepresentations in an application or in any supporting documentation to an application shall be null and void; and any development activity commenced under such permit shall constitute a violation of this bylaw.

C) Effective Date

1) No zoning permit shall take effect until the time for appeal under Section 10.4 has passed, or in the event that a notice of appeal is properly filed, until final adjudication of the appeal.

2) Zoning permits and associated approvals shall remain in effect for 1 year from the date of issuance, unless the permit and associated approvals specify otherwise. Development authorized by the permit and associated approvals must be commenced within this 1 year period.

3) The Zoning Administrator may administratively extend a permit and associated approvals for an additional period not to exceed 1 year upon finding that there was reasonable cause for delay in the commencement of the development.

D) Initiation of Construction, Water and Wastewater Permits. All structures and uses that generate wastewater or require access to potable water may be required to obtain a Wastewater and Potable Water Supply Permit from the Vermont Department of Environmental Conservation (DEC) in accordance with 10 V.S.A. Chapter 64 and the Wastewater System and Potable Water Supply Rules (dated September 29, 2007 or as revised from time to time by the DEC). Applicants proposing land

development that generates wastewater or requires access to potable water must contact the Agency of Natural Resources District Permit Specialist to determine if such a permit it required.

1) If, according to the DEC, a Wastewater System and Potable Water Supply Permit is not required, the property owner/applicant shall provide written proof from the DEC of such to the Zoning Administrator.

2) No construction can take place until copies of the State permits or proof that a permit is not needed have been filed with the Zoning Administrator for the Town of Enosburgh.

Section 3.3: Conditional Use Review

A) Purpose. Conditional uses are uses of land or of structures that have potential for causing adverse impacts on other uses because of such factors as location, method of operation, scale or intensity of activity, or traffic generated. As a consequence, they require special review in which conditions may be imposed to insure compatibility. Pursuant to the Act, uses listed as conditional uses in any zoning district may be allowed with the approval of the DRB after public notice and public hearing, but only if they meet general and specific standards and if the DRB determines that they conform to such standards.

B) Applicability. Approval from the DRB is required for all land development requiring Conditional Use Approval before applying to the Zoning Administrator for a Zoning Permit. The following uses require Conditional Use Approval:

1) Initiating a new use that is listed in Section 2.4 as conditional (C) or conditional with Site Plan Approval (C/S).

2) Changing an existing use to a different use that is listed as conditional (C) or conditional with Site Plan Approval (C/S) in Section 2.4.

3) Expanding or modifying an existing conditional use so that it no longer conforms to its existing Conditional Use Approval.

4) Nonconformities (in some cases, see Section 4.6).

C) Application Materials. The applicant for conditional use approval shall submit a conditional use application and two copies of a site plan, which shall include the following information:

1) Name and address of the applicant and the owners of all properties adjoining the property subject to development, without regard to rights of way;

2) Name and address of person or firm preparing the plan and map;

3) Scale of map, north arrow, and date prepared;

4) Features of the existing site including lot size(s), boundaries, and dimensions, contours, structures, large trees, streets, utility easements, rights of way, land use and deed restrictions, and significant natural features including but not limited to wetlands, woodlands, steep slopes or flood hazard areas, property and zoning boundaries, existing structures and access points to roads and adjacent properties. Existing data, such as USGS contour maps or orthophotos may be utilized, however the DRB may require additional information if it determines they do not provide sufficient information necessary to meet this application requirement;

5) Proposed improvements including structures, parking areas, access points, signs, sidewalks and other walkways, loading docks, outside storage areas, sewage disposal areas, landscaping, exterior lighting, screening and site grading. Building information, including elevations and floor plans may also be required;

6) Evidence that an adequate water supply in terms of quantity, quality and dependability, for the use is available;

7) Statement as to potential impact of proposed uses of public services and infrastructure;

8) Detailed specifications of the planting and landscaping materials to be used;

9) Construction sequence and time schedule for completion for buildings, parking spaces, and landscaped areas of the entire development;

10) Estimate of daily and peak hour traffic generation;

11) Any other information that the DRB may reasonably require, including traffic studies and a soils report obtained from the Regional Planning Commission or other local agency, or performed by a professional soils engineer or geologist, when appropriate, to delineate areas of the most productive agricultural soils; and

12) For the Conservation and Natural Resources Overlay Districts, any information required under Section F, unless waived by the DRB.

D) Conditional Use Review Standards. In order to find that the development will satisfy the above criteria, the DRB shall specifically find, where applicable, that the proposed project will:

1) Have adequate traffic access, circulation and parking, and shall not cause unreasonable traffic congestion or unsafe conditions with respect to pedestrian or vehicular traffic or other transportation facilities;

2) Not cause an unreasonable burden on the ability of the Town or School districts to provide educational services;

3) Not place an unreasonable burden upon the ability of the Town to provide services, including but not limited to Fire, Police, Ambulance, Road Maintenance and Recreation;

4) Not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, or cultural and historic sites; or important environmental resources, wildlife habitat, wetlands,

streams, rivers and ponds, or rare or irreplaceable natural areas identified in the Enosburgh Town Plan;

5) Be designed to retain the maximum possible area of land for productive agricultural use, and be compatible with the Enosburgh Town Plan's policies regarding agricultural use;

6) Not have an undue adverse effect on the present and projected housing needs of the Town in terms of amount, type, affordability and location;

7) Be in conformance with all other policies identified in the Town Plan;

8) Comply with all specific Conditional Use criteria applicable to the District, and other specific requirements of this bylaw;

1) Comply with applicable General Standards and Specific Use Standards in Articles 4 and 5;

2) Be of a scale appropriate for a rural community and will fit within the character of the existing structures and uses in the district and with the Purpose of the district as stated in these Regulations; and

3) Be designed and sited to minimize the appearance of strip development along roads. This can be accomplished by grouping buildings together, sharing access points, construction of through roads, and other design options.

E) Character of the Area Affected/Neighborhood Considerations

1) A goal of the Town Plan is to "conserve and protect the vitality and quality of existing neighborhoods." The existence of one conditional use in a residential neighborhood will not necessarily be interpreted as justification for another similar conditional use to be located there.

2) When considering the character of the neighborhood or area, the DRB should consider the following:

a) Existing neighborhood uses, types of buildings, noise and traffic;

b) Town Plan and Bylaw District Purposes;

c) Historic buildings & features, uniformity or mix of uses & buildings, mass & spacing of buildings, scenic views, aesthetics, open space, agricultural lands and important natural features; and

d) Privacy, security, identity, sense of community and cohesion.

F) Specific Conditional Use Standards for the Conservation and Natural Resources Overlay Districts. A biologic impact report may be required as part of the application for Conditional Use.

1) For the Conservation and Natural Resources Overlay Districts, a biological impact report is required. Upon request of the applicant, the DRB may waive this requirement for projects it deems are designed in ways that have little or no adverse impact on Significant Wildlife Habitat and to minimize or avoid Fragmentation (See Section 8.16).

2) The study shall be prepared by a consultant or other party, qualified to assess the impact of development on biologic area. The applicant shall pay for the cost of the study. The study shall address the following:

   a) Total acres in the project area;

   b) Total acres of each habitat type in the project area;

   c) Location and total acreage of open space areas in the project area;

   d) Wildlife species known to be present or occurring on the site;

   e) Use patterns of wildlife habitat within the project area (movement corridors, feeding areas, etc);

   f) Critical connections or relationships with adjoining habitats outside the project area;

   g) Potential impacts of the proposes project on wildlife habitat and species;

   h) List of proposed mitigation methods for each wildlife habitat and species; and

   i) Any other information deemed necessary by the DRB to adequately assess the impact of the proposal on biological areas within or adjacent to the project site.

G) Conditions. The DRB may place conditions on a project in order to insure that the standards of these Regulations will be met, including, but not limited to, the following conditions:

1) The DRB may limit the scale or dimensions of the proposal.

2) The DRB may increase setback distances for non-residential uses which are contiguous to residential uses, recreation uses, or natural areas.

3) The DRB may limit the hours of operation.

4) The DRB may limit outdoor storage of materials, goods, and equipment.

5) The DRB may require that storage of goods, parts, supplies, vehicles or machinery being worked on or finished or partially finished will be inside a building or behind screening.

6) The DRB may attach conditions with regard to size and location of parking areas, landscaping, and signs.

7) The DRB may require roadway improvements on-site or off-site**,** if deemed necessary, to accommodate the increased traffic associated with the development. Improvements may also

include traffic calming, sidewalks, crosswalks and other similar improvements.

8) The DRB may place conditions on the proposed development to mitigate adverse impacts on Significant Wildlife Habitat and to minimize or eliminate Fragmentation.

9) The DRB may require other improvements necessary to ensure compliance with these Regulations.

H) The DRB may request additional information that it deems necessary, and impose appropriate conditions and safeguards to meet the criteria and standards in this section. The applicant shall have the burden of proof that the project meets all criteria.

I) If the DRB determines that the general standards and criteria set forth above have not been met, it shall deny the application.

J) The DRB may also require that the applicant file a letter of credit (or other security of a type approved by the Selectboard in an amount specified by the DRB sufficient to secure completion by the applicant of required landscaping and other site improvements and work in the public right-of-way, and maintenance for a period of up to two years after completion.

Section 3.4: Site Plan Review

A) Applicability. As shown in Table 2.1 certain uses shall be subject to site plan review by the DRB. In reviewing site plans the DRB shall use the standards in Article 8 as a guide for decision making and may impose appropriate conditions and safeguards with respect to the adequacy of pedestrian and vehicular access and circulation, parking, landscaping, screening, utilization of renewable energy resources and other similar site factors.

B) Submittal Requirements. The applicant for site plan approval shall submit a site plan application and two copies of a site plan, which shall include the following information:

1) Name and address of the applicant and the owners of all properties adjoining the property subject to development, without regard to rights of way.

2) Name and address of person or firm preparing the plan and map. Scale of map, north arrow, and date prepared.

3) Features of the existing site including lot size(s), boundaries, and dimensions, contours, structures, large trees, streets, utility easements, rights of way, land use and deed restrictions, and significant natural features including but not limited to wetlands, woodlands, steep slopes or flood hazard areas, property and zoning boundaries, existing structures and access points to roads and adjacent properties.

4) Proposed improvements including structures, parking areas, access points, signs, sidewalks and other walkways, loading docks, outside storage areas, sewage disposal areas, landscaping, exterior lighting, screening and site grading. Building information, including elevations and floor plans may also be required.

5) Detailed specifications of the planting and landscaping materials to be used.

6) Construction sequence and time schedule for completion for buildings, parking spaces, and landscaped areas of the entire development.

7) Estimate of daily and peak hour traffic generation.

8) Any other information that the DRB may reasonably require, including traffic studies.

C) General Standards. In reviewing a site plan, the DRB may consider and impose appropriate safeguards and conditions with respect to the adequacy of parking, traffic access and safety, circulation for pedestrians and vehicles, the size, location, and design of signs, exterior lighting, landscaping and screening, and the protection of the utilization of renewable energy resources, and other matters contained in Article 8.

Section 3.5: Variance Review

A) Variance Criteria. The DRB shall hear and decide requests for variances from the requirements of these regulations. Because of rules included in the Act, variances may only be granted in extremely limited circumstances. In granting a variance, the Board may impose conditions it decides are necessary and appropriate under the circumstances to implement the purposes of this bylaw and the Town Plan. The DRB may grant a variance and render a decision in favor of the applicant only if all of the following facts are found, and the findings are specified in its written decision:

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 this 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 this bylaw and that the authorization of a variance is necessary to enable the reasonable use of the property;

3) The 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; and

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

B) Renewable Energy Structures. Where a variance is requested for a structure that is primarily a renewable energy resource structure, in accordance with the Act, the Board may grant such variance only if all of the following facts are found in the affirmative and specified in its written decision:

1) It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with this bylaw;

2) The hardship was not created by the appellant;

3) 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

4) The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from this bylaw and from the Town Plan.

C) Variances within the Flood Hazard Area. Variances within the Flood Hazard Area may be granted only as outlined in Section 9.7.

Section 3.6: Waivers

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

1) shall consider and may require design features, screening, or some other remedy in order to mitigate anticipated impacts of any such waiver. The design feature should have a minimum height of five (5) feet above grade level and shall provide adequate privacy to the surrounding use(s). Options include a wall, a solid fence, a densely planted hedge or natural and/or man-made landforms.
2) may require that all outdoor storage of materials and equipment, including waste storage facilities, shall not be stored or located within the reduced setback area.
3) shall provide only the minimum waiver that will represent the least deviation possible from the bylaw.

B) Road and Driveway Waivers. The Development Review Board may allow new roads or driveways in the Natural Resources Overlay District to exceed 800 feet in length if the DRB determines it is necessary because there is no other way to provide access to development on the property or the longer length is necessary in order to avoid adverse impacts on surface waters, wetlands, significant wildlife habitat, wildlife travel corridors and productive forestry and agricultural lands. If allowed, the DRB may impose conditions to ensure there is no undue adverse impact on surface waters, wetlands, significant wildlife habitat, wildlife travel corridors and productive forestry and

agricultural lands. Conditions may include limiting the length of the road or driveway, requiring relocation to other areas of the parcel or limiting the scale of the road.

C) Applications for waivers shall be considered by the Development Review Board after a public hearing held in accordance with Section 10.2.

Article 4. General Regulations Applicable to All Development

Section 4.1: General Regulation of Uses and Structures

A) Every use of land or of any building or other structure shall conform to a class and type allowed in the zoning district in which the land and the structure are located, and shall comply with the provisions of these bylaws.

B) Any new use of land or of any building or other structure not conforming to a class and type allowed in the zoning district in which the land and the structure are located, or not complying with the provisions of these bylaws is absolutely prohibited.

C) Any use of land or building or other structure existing on the effective date of this bylaw, but not then conforming to a class and type allowed within the zoning district in which the land and the structure are located, or not complying with other provisions of these bylaws may be allowed to continue indefinitely subject to the provisions of Section 4.6 of this bylaw.

Section 4.2: Principal Uses & Structures

A) **Principal Use and Structures.** More than one principal use and structure per lot is not allowed unless approved by the DRB through conditional use review. Where more than one principal use or structure is allowed on a lot:

1) Each of the principal uses and structures shall be of a type or class allowed in the zoning district in which the land and the structures are located.

2) The requirements applicable to the use or structure requiring the largest lot size shall apply to all of the uses and structures together as if there were a single principal use or structure on the lot.

3) All the uses and structures shall share the same access point to the lot except where explicitly allowed by the DRB to ensure safety or avoid impacts on resources.

B) **Principle Use in Farm Dwelling Complex.** In a farm dwelling complex the dwelling occupied by the farm operator shall be considered as the principal structure, the temporary living quarters shall be considered as accessory structures, and all may all be located on an area of land on the lot that is the size required for a multiple family dwelling.

Section 4.3: Abandonment of Structures, Demolition, and Destroyed Structures

A) **Abandonment of Construction or Damaged Structures.** Within two years after the abandonment of any structure which has been substantially damaged by fire or other cause, or if active work on an uncompleted construction project has not occurred in such period, the owner shall either remove all ruins and structural materials and restore the site to a smooth grade, or resume construction or repair of the structure.

Section 4.4: Access Requirements, Rights of Way and Frontage

A) No land development may be permitted on a lot that does not have either:

1) Frontage on a maintained public or private road; or

2) With conditional use approval of the DRB, safe and adequate access by means of a permanent easement or right of way to such a public road, or to public waters. Access easements or rights of way shall not be less than 20 feet. The DRB may require easements or rights of way to be up to 50 feet in width to ensure adequate safety and provide for orderly future development. Preexisting right of ways shall be subject to review upon a change in use, development, redevelopment, relocation or expansion.

B) Through subdivision approval, the DRB may approve an easement or right of way to serve no more than two lots where the shape of the original parcel makes the provision of frontage on a public or private road impractical, or where designing the subdivision with frontage would result in adverse impacts on significant wildlife habitat.

Section 4.5: Height Limits

A) **Maximum Height.** No building or other structure, whether principal or accessory, shall exceed 35 feet in height above the average ground level unless approved by the DRB. The Board may permit structures in excess of 35 feet provided the structure does not constitute a hazard.

B) **Exceptions.** Unless otherwise provided in these bylaws, height limits on structures shall not apply to antenna structures, 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 4.6: Nonconformities: Lots, Uses and Structures

A) Nonconforming Structures and Uses

1) A nonconforming structure may remain indefinitely as and where it stands on the effective date of this bylaw. A nonconforming structure may also be rebuilt, repaired, relocated, altered, or enlarged, subject to the following:

   a) A nonconforming structure destroyed, demolished or damaged to any extent may be rebuilt or repaired subsequent to the destruction, demolition or damage provided that the rebuilding or the repair is commenced within two years of the destruction, demolition or damage, and provided that the rebuilding or the repair does not increase the degree of nonconformity that existed prior to the destruction or damage. If the rebuilding or the repair is not commenced within two years of the destruction, demolition or damage, the structure may only be rebuilt or repaired in conformity with the requirements of this bylaw applicable to new development. Application for a zoning permit and, if required, site plan or

conditional use approval, or both, by the DRB within two years of the destruction, demolition or damage shall constitute commencement of the rebuilding or the repair.

b) With the approval of the DRB, a nonconforming structure, whether or not it has been destroyed, demolished, or damaged as set out in paragraph A above, may be relocated, altered or enlarged so as to increase the degree of nonconformity: (1) solely to provide disability access, or to comply with federal, state, or local health, sanitary, or safety code specifications that are solely necessary to assure safe living conditions, or, (2) if the relocation, alteration, or enlargement is necessary to enable the reasonable use of the structure, will not alter the essential character of the neighborhood or district in which the structure is located, will not substantially or permanently impair the appropriate use or development of adjacent property, will not reduce access to renewable energy resources, will not be detrimental to public welfare, and provided that the increase in the degree of nonconformity represents the least deviation possible from the requirements of this bylaw applicable to new development.

c) Nothing in this Section shall be deemed to prevent normal maintenance and repair of a nonconforming structure provided that such action does not increase the degree of nonconformity.

d) With regard to nonconforming structures, the DRB may hold hearings, make findings, and attach such conditions to rebuilding, repair, relocation, alteration, or enlargement as are necessary to ensure the least deviation possible from the requirements of this bylaw applicable to new development.

2) A nonconforming use may continue indefinitely without alteration in the manner it is being carried out on the effective date of this bylaw. A nonconforming use may also be altered, changed to another nonconforming use, or expanded, subject to the following:

a) With the approval of the DRB, a nonconforming use may be altered, or changed to another nonconforming use, if the alteration of the continuing use, or the new use, maintains the same or a lesser degree of nonconformity,

b) Upon the abandonment or discontinuance of a nonconforming use for a period of twelve consecutive months, or if a nonconforming use is changed to a conforming use, the nonconforming use may not be recommenced or continued regardless of intention to perpetuate such use.

c) With the approval of the DRB, a nonconforming use may be expanded so as to increase the degree of nonconformity: (1) solely to provide disability access, or to comply with federal, state, or local health, sanitary, or safety code specifications that are solely necessary to assure safe living conditions, or, (2) if the expansion is necessary to enable the reasonable use of the land, will not alter the essential character of the neighborhood or district in which the use is located, will not substantially or permanently impair the appropriate use or development of adjacent property, will not reduce access to renewable energy resources, will not be detrimental to public welfare, and provided that the increase in the degree of nonconformity represents the least deviation possible from the requirements of this bylaw applicable to new development.

d) Nothing in this Section shall be deemed to prevent normal continuation of a nonconforming use provided that such action does not increase the degree of nonconformity.

3) With regard to nonconforming uses, the DRB may hold hearings, make findings, and attach such conditions to alteration, change, or expansion as are necessary to ensure the least deviation possible from the requirements of this bylaw applicable to new development.

B) Nonconforming Lot or Parcel.

1) A nonconforming lot or parcel legally subdivided, in individual and separate and nonaffiliated ownership from surrounding properties, and in existence on the effective date of this bylaw may be developed for the purposes permitted in the zoning district in which it is located, even though not conforming to the dimensional requirements of this bylaw, provided that the lot or parcel is not less than one-eighth acre in area, or has a minimum width or depth dimension of at least 40 feet.

2) If a nonconforming lot or parcel comes under common ownership with one or more contiguous lots or parcels on or after the effective date of this bylaw, the nonconforming lot or parcel shall be deemed merged with the contiguous lots or parcels. However, such a deemed merged nonconforming lot or parcel may subsequently be separately conveyed if all the following apply:

a) Each nonconforming lot or parcel is conveyed in its preexisting, nonconforming configuration;

b) On the effective date of this bylaw, each nonconforming lot was developed with a water supply and wastewater disposal system;

c) At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner; and

d) The deeds of conveyance create appropriate easements 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) chapter 64.

Section 4.7: Development Near Waterways

A) Purpose. Surface waters and their buffers are valuable to people and vital to our natural resources. The floodplains, wetlands, and wooded slopes along streams are very important parts of the stream ecosystem, and in many ways determine the diversity and health of a stream. The maintenance and enhancement of streamside and lakeside vegetation is the easiest and most effective means of protecting the many benefits and values associated with Enosburgh's waters. Thus, the Town of Enosburgh requires that an undisturbed naturally vegetated buffer strip be maintained from the shores of lakes and ponds and from each bank of streams and rivers for several reasons, it:

1) Stabilizes banks and holds soil in place;

2) Supports trees that drop leaves as food;

3) Provides a refuge for threatened animals and plants;

4) Takes up excess nutrients in the roots and recycles them;

5) Decreases flood severity;

6) Holds water;

7) Filters stormwater runoff pollutants;

8) Hides wildlife predators and their prey;

9) Keeps stream shaded and cool;

10) Support recreational activities;

11) Provides drinking water for the community; and

12) Provides crop-saving irrigation for farmers during droughts.

B) New Structures. New structures or alteration of existing structures for transportation facilities, transmission lines, and sewer, water and gas lines may be constructed in buffers only of no practicable or feasible alternative exists for locating the structure elsewhere. If constructed within the buffer, acceptable management practices, soil conservation and water quality plan are required.

C) Existing Structures. Existing structures already located in the buffer may be removed, restored, repaired, maintained, or enhanced. Enlargements no more than 20% may be allowed with approval from the DRB, but must submit a mitigation plan that includes acceptable management practices. The DRB may impose conditions such as:

1) Planting native species such as willow, silver maple, or cottonwood along the riverbanks.

2) Allowing a natural buffer to form from the edge of the lawn to the water. This can simply be done by not mowing to the edge of the property along the waterway.

3) Re-positioning rain gutters so that they drain to the lawn instead of pavement.

D) Prohibited Activities. The following uses shall be prohibited within buffer strips:

1) No alteration of streambed or bank, except to reduce erosion, and maintenance of stream crossings for agricultural purposes.

2) In general, disturbances to natural vegetation are prohibited. These include disturbances by tree removal, clearing, burning, and spraying. No pesticide use or storage.

3) No storage for motorized vehicles. No use of motorized vehicles except for approved maintenance and emergency use.

4) No sewage disposal systems may be located within 300 feet of normal high water level of a water supply or within 200 feet of the banks of any stream that feeds into a water supply.

5) No soil disturbance from grading, plowing, except with approved soil conservation and water quality plan.

6) No mining or excavation, except existing uses, no dredging except as permitted by State law.

7) No deposit or landfill or reuse, solid or liquid waste; fill allowed only as approved by the Army Corps of Engineers.

8) No storage of materials.

9) No dumping.

10) No fill to expand development area.

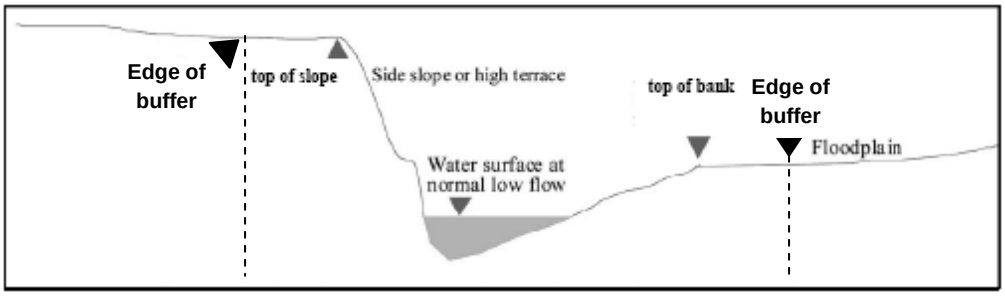
E) In hardship cases, buffer requirements may be waived or modified by the DRB in accordance with a management plan that provides equal or better water quality protection, requires mitigation measures to compensate for loss of habitats, and does not adversely affect habitats of threatened and endangered species.

F) The width of the buffer strip shall be in accordance with Table 4.1 below and should be measured from the top of bank or top of slope, depending upon characteristics of the waterway (see Figure 4.1). No development or approved management practices shall occur within the buffer strips.

Table 4.1 Width of Buffer Strips (feet along the ground surface)

Type of Waterway	Required Buffer
Seasonal (intermittent) streams and permanent streams < 10 ft in average channel width	25 feet
Unnamed rivers and streams > 10 feet in average channel width	50 feet
Named rivers and streams	110 feet
Lakes and ponds	50 feet

Figure 4.1
Finding Top of Slope and Top of Bank for Measuring Buffer Setbacks



Section 4.8: Steep Slopes

Moderately sloping lands (15 to 25 percent) and steeply sloping lands (over 25 percent) are prone to severe erosion if disturbed. Erosion and the resulting overland flow of soil sediments into streams, ponds and public roads, are detrimental to water quality and aquatic life, and a potential hazard to public safety.

A) All grading and earthmoving on slopes exceeding 15 percent shall be minimized.

B) On slopes of 15 to 25 percent, the only permitted grading beyond the terms described above shall be in conjunction with the siting of a single family dwelling and its access driveway which should be designed following the land contours.

C) No site disturbance shall be allowed on slopes exceeding 25 percent except grading for a portion of a driveway accessing a single family dwelling when it can be demonstrated that no other routing that avoids slopes exceeding 25 percent is feasible.

Section 4.9: Parking

A) Adequate provision shall be made so that normal vehicular traffic to any use may be parked off the public roads and highways. Specifications shall be provided as follows whenever any new use is established or when the present use is expanded:

1) Residential - 2 parking spaces per dwelling unit.

2) Rooming and boarding, and lodging establishments - 1 per (rental) lodging unit.

3) Professional and business offices - 1 per 200 sq. ft. of floor space.

4) Retail and repair establishments - 1 per 250 sq. ft. of floor space.

5) Restaurants (not including drive-in) - 1 per employee plus 1 per 4 seats.

6) Industry - 1 per employee on the largest shift.

7) Unspecified uses - as required by the DRB.

B) The DRB may require additional parking and loading spaces, if it is found that the above-specified standards are not sufficient.

C) The board may adjust the number of parking spaces for nonresidential parking where shared spaces may be utilized. The DRB may also require shared parking to reduce the amount of impervious surface.

Section 4.10: Performance Standards

The following standards of performance must be met and maintained by all uses in all districts and shall be a guide for decision making for site plan approval:

A) No use of land or structures shall emit odors, noise, dust, dirt, noxious smoke or gases or other disturbances which are offensive and uncharacteristic of the area, or which cause damage to any home, business, vegetation or other property, or which endanger the health, safety or welfare of the neighborhood.

B) No use of land or structures shall present an unreasonable risk as to fire, explosion or hazard to any adjacent property or vehicular traffic.

C) No use of land or structures shall cause harmful wastes to be discharged into any water course or into any disposal facility beyond its proper capacity. All local, state and federal health standards shall be complied with.

D) Development unrelated to agricultural operations shall be designed so as to avoid or minimize development on lands capable of sustained agricultural production as evidenced by soils, recent agricultural use, and/or surrounding agricultural use.

E) Preservation of open space within proposed developments shall be designed to be contiguous and interconnecting with adjacent open space, and shall be subject to permanent conservation restrictions. Open space shall also be designed to protect those portions of the site with the highest natural resource values. Within open space areas, the maximum amount of natural vegetation shall be maintained.

F) In the design of developments, significant natural and fragile areas including critical wildlife and plant habitat; water resources such as lakes, rivers, aquifers, and wetlands; historic, cultural, and archaeological areas; significant scenic roads and views; unfragmented forest and woodlands; and significant landforms shall be preserved in accordance with the standards set out in this bylaw or the Subdivision Regulations, whichever is applicable.

G) Wireless telecommunications facilities shall be required to locate on existing structures and/or co-locate with existing facilities in order to minimize their visual and environmental impacts in accordance with the standards set out in this bylaw or in a specific Town Ordinance, whichever is applicable.

Section 4.11: Signs

A) A zoning permit shall be required prior to the erection, construction or replacement of an outdoor sign except the following, which shall be exempt from this bylaw:

1) Public highway signs;

2) Non-advertising signs placed for directional or safety purposes (i.e.: “rest rooms”, “telephone”, “office”, “exit”, “falling ice”, “fire extinguisher”, “no trespassing”, etc)); or

3) Temporary auction, lawn sale or real estate for sale signs, not to exceed two in number and not to exceed 15 square feet in combined area. All such temporary signs shall be promptly removed when they have fulfilled their functions.

B) The following shall be prohibited in all districts:

1) Signs which impair highway safety;

2) Signs which are animated, flashing or intermittently illuminated or uncharacteristic to the area;

3) Roof signs and wall signs which extend above the roof line;

4) Signs which project over public right of way or property lines; and

5) Signs in excess of 30 feet high.

C) Sign Number, Size and Computation

1) On premises signs may be permitted as provided below:

Table 4.2 On Premise Signage

Type of Premises	Max Number of Signs	Max Total Sign Area	Max Height
Home Occupation/Cottage Industry	1	6 sq ft	6 ft
Business or Industry	2	25 sq ft	20 ft
Church, School, or other Public Use	1	20 sq ft	15 ft

2) When computing the total permissible sign area for any use:

a) Existing signs shall be included;

b) The total area of all signs shall not exceed the requirements as set forth in these regulations;

c) Signs consisting of free standing letters, numerals or other components shall include any entrenching space between them;

d) Only the larger face area of a double-faced or y-type sign shall be used, and the angle of these signs is not to be greater than 150 degrees; and

e) Back to back signs may be counted as one sign.

D) Illuminated signs shall be lighted so as not to produce undue glare, hazard or distraction to traffic or adjacent uses of land. Illumination shall be properly focused upon (or from within) the sign itself.

E) Notwithstanding those district setback requirements for structures, free-standing signs may be placed at the edge of the highway right of way. However, such signs shall not be located within 20 feet of adjacent private property unless combined (or on the same stand with) the sign of an adjacent business.

Article 5. Specific Use Standards

Section 5.1: Accessory Dwellings

A) Accessory Uses and Structures

1) There shall be no more than one accessory use and structure per lot unless allowed as a conditional use and subject to site plan approval where required.

2) Where more than one accessory use or structure is allowed on a lot, each shall be of a type or class allowed in the zoning district in which the land and the structures are located.

3) Every accessory structure shall be located at least five feet from any other structure on the lot unless it forms part of, or is attached to, the other structure.

B) Accessory Dwelling Units. One accessory dwelling unit may be allowed, as an accessory to a single-family dwelling provided the following standards are met:

1) The accessory dwelling shall be located within or appurtenant to a single-family dwelling.

2) Floor space shall not exceed 30.0% of the floor space of the existing finished living area of the single-family residence or 700.0 square feet which ever is greater.

3) The owner must occupy either the primary residence or the accessory dwelling.

4) The accessory dwelling unit shall share the access point to the lot with the principal structure, except where it can be proven that to do so would eliminate ability to create the accessory dwelling unit.

Section 5.2: Camping Vehicles and Campgrounds

A) Camping Vehicles

1) A single (1) camper trailer, may be stored within the setbacks on a lot.

2) The vehicle may not be occupied for dwelling purposes, unless for recreational purposes for no more than a cumulative time period of four (4) months during a calendar year. In no case shall a trailer, school bus, motor home, or other large vehicle be attached to a septic system. Any sewage generated shall be disposed of off-site in accordance with applicable State and Federal regulations.

B) Campgrounds

1) **Applicability.** New campgrounds or any addition or alteration to an existing campground must meet the following criteria in addition to the criteria of Section 3.3, Conditional Use:

   a) Campgrounds shall provide toilet facilities and individual camping vehicle or tent spaces.

b) All campgrounds shall comply with State Regulations.

c) A strip of land at least 50 feet wide shall be maintained as a landscaped area abutting all campground property lines. No camping vehicle, tent or service building shall be located in this buffer area) The DRB may reduce or eliminate this landscaped area provision if such a modification or waiver will make it possible to preserve-a scenic view from the campground providing that privacy for adjacent property owners can be maintained.

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

Table 5.1 Campground Collector Road Standards

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

e) Every campground operator shall maintain a register, available to any authorized person inspecting the facility, or to any emergency officials. Said register, shall contain the names and addresses of all campground occupants and the dates of occupancy, and it shall be preserved for a period of at least one year.

Section 5.3: Extraction, Quarrying, Excavation, and Fill

A) Any major land filling or excavation which would cause a substantial change in the rate or direction of drainage shall be permitted only upon conditional use approval by the DRB, after a public hearing. The Board shall consider the existing and proposed grades and materials to be used. Appropriate conditions and safeguards may be imposed to minimize any adverse effects on other properties, such as erosion, etc.

B) Commercial or industrial extraction of earth resources shall be permitted only upon conditional use approval by the DRB, after a public hearing. Before approval may be granted, the applicant shall:

1) Submit an acceptable plan showing existing and proposed finished grades of the site so as to demonstrate that the site will be left in a usable condition;

2) Agree to cover the finished grades, except exposed ledge rock, with at least 3 inches of topsoil and seed with a suitable crop cover upon completion of the operation; and

3) Post bond with the Town Treasurer sufficient to guarantee such restoration of the site, if required by the DRB. Preexisting land fill and excavation are exempt from regulation if continued at the historical rate with no substantial change.

Section 5.4: Home Occupation

A) Home occupations are permitted as an accessory use in all districts where residential uses are permitted subject to the following provisions**:**

1) The home occupation shall be clearly incidental and secondary to the residential use of the property, and shall be conducted wholly within the principal or accessory structures, occupying no more than the equivalent of twenty-five percent (25%) of the dwelling's ground floor area.

2) The home occupation shall be carried on by members of the family residing in the dwelling unit. Two additional employees who are not members of the family are permitted.

3) No traffic shall be generated which would be uncharacteristic of the neighborhood. Delivery or pickup of goods shall not exceed that normally crated by residential uses.

4) Exterior displays, exterior storage of materials, and exterior indications of the home occupation or variation from the residential character of the principal or accessory structure shall be prohibited.

5) Home occupations shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners and the Town as a whole. Any machinery, mechanical devices, or equipment employed in the conduct of a home occupation based on business shall not generate noise, vibration, radiation, odor, glare, smoke, steam, or other conditions not typically associated with the use of the dwelling for residential purposes.

6) Additions to a dwelling or accessory structure for the purpose of conducting a home occupation shall be of an architectural style that is compatible with the architecture of the dwelling and shall be designed so that the addition can be used for dwelling purposes if the home occupation is discontinued.

7) No hazardous chemicals shall be stored on site.

8) No process, chemicals, or materials shall be used which are contrary to any applicable State or Federal laws.

B) There shall be permitted for each home occupation one sign as follows:

1) A flat sign no to exceed six square feet in sign area; or

2) An overhanging sign not to exceed six square feet in sign area; or

3) A free-standing sign not to exceed six square feet in sign area.

4) No sign shall be illuminated.

5) No sign shall be located within ten feet of a front lot line.

C) A person using a dwelling for a home occupation shall provide, in addition to the parking spaces required for the dwelling, adequate off-street parking spaces on the same lot or on a lot adjacent thereto under the same ownership or under a permanent easement.

D) The above regulations shall not, however, be construed to infringe upon the rights for a home occupations as provided in the Act.

E) The following do not qualify as home occupations: the sale of property at retail, unless as a minor or subordinate part of a permitted home occupations use; commercial stable or kennel; restaurant; musical or dance instruction to groups medical office or clinic; garage or shop for the repair of motor vehicles; machine shop; mortuary; antique shop; gift shop; or uses similar to the foregoing.

Section 5.5: Mobile Homes and Mobile Home Park~~s~~

A) **Exceptions.** Nothing herein shall be construed to apply to premises used solely for storage or display of mobile homes. Mobile home park does not mean any parcel of land under the ownership of an agricultural employer who may provide up to four mobile homes used by full-time workers or employees of the agricultural employer as a benefit or condition of employment.

B) **References to State Law.** Pursuant to the Act, Section 4406 (4), a mobile home must be attached to a permanent pad or foundation, shall be considered a single family dwelling, and shall meet the same zoning requirements applicable to single family dwellings, except when unoccupied and displayed in a mobile home sales establishment or allowed as a temporary structure. In addition, mobile homes may be permitted in a mobile home park subject to the requirements of this section and state law. Except as provided in [24 V.S.A) 4414(1)(E. and (F)] no bylaw shall have the effect of excluding mobile homes, modular housing, pre-fabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded.

C) **Review Requirements and Standards for Mobile Home Parks.** New mobile home parks and any addition or alteration to an existing mobile home park shall require Subdivision and conditional use approval by the DRB and must comply with the following standards:

1) A mobile home park shall have a contiguous area of not less than five (5) nor more than fifteen (15) acres. The maximum density of any mobile home park shall not exceed an overall average of one mobile home per .25 acre.

2) A strip of land at least 50 feet wide shall be maintained as a landscaped area abutting all mobile home park boundary lines. No mobile home unit or office, utility or service building may be placed in this buffer area) However, the DRB may reduce or eliminate this landscaped area requirement if such a modification or waiver will make it possible to preserve a scenic view from the mobile home park, provided the privacy for adjacent property owners can be maintained.

3) Each mobile home lot shall have at least 30 feet of frontage on a mobile home park road. Said roads shall be constructed to the Selectboard's road standards.

4) Sewage disposal, water supply and garbage facilities shall comply with State Regulations.

Section 5.6: Public Facilities

A) In accordance with the Act (Section 4413), the following public facilities may be regulated, subject to Site Plan Review and Conditional Use Review only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off street parking and loading, traffic, noise, lighting, and landscaping or screening requirements, and only to the extent that the regulations do not interfere with the intended functional use:

1) State or community owned and operated institutions and facilities;

2) Public and private schools and other educational institutions certified by the Vermont Department of Education;

3) Churches and other places of worship (see definitions), convents, and parish houses;

4) Public and private hospitals;

5) Regional solid waste facilities certified by the State (10 V.S.A. chapter 159); and

6) Hazardous waste management facilities for which a notice of intent to construct has been received under state law (10 V.S.A. 6606a).

Section 5.7: Telecommunications Facilities

A) Standards and Criteria. Commercial telecommunication towers and antennas must meet the following criteria in addition to the Conditional Use Standards in Section 3.3:

1) Climbing access to the tower shall be restricted.

2) For towers 20 feet in width (diameter) or more, a setback from all lot lines shall be 275 feet.

3) Commercial towers shall be evaluated based on their impact to the character of the neighborhood and visual impact.

4) Antennas shall be placed on existing structures such as silos or church steeples where available and appropriate.

5) Commercial towers shall be of a nonreflective, unobtrusive color with a nonreflective finish and may be required to be painted or otherwise camouflaged to minimize the adverse visual impact.

6) Any commercial telecommunication tower which has reached the end of its useful life or has been abandoned shall be removed. Abandoned is defined as the failure to operate the facility on a continuous and ongoing basis for a period of one year. At the time of removal, the tower site shall be reclaimed.

7) Bond or money in escrow must be provided to insure that the cost of commercial telecommunication tower removal is covered.

8) The developer must provide evidence of appropriate insurance in order to protect potential impacts to abutters.

9) The DRB reserves the right to apply additional conditions as appropriate.

Section 5.8: Wind Energy Conversion Systems

A) Standards. Wind turbines and wind energy facilities must meet the following criteria in addition to the Conditional Use Standards in Section 3.3:

1) Climbing and access to the tower shall be restricted. For rotors 20 feet or more in diameter, the area around each wind turbine and any appurtenant structure (other than and access road. shall be completely fenced for security to a height of 6 feet and gated. One sign no greater than 1 square foot shall be posted adjacent to the entry gate, indicating the name of the wind facility owner and a 24-hour emergency telephone number.

2) For rotors 20 feet or more in diameter, a setback from all lot lines shall be 275 feet.

3) Any wind turbine shall have a minimum blade clearance from the ground immediately below each wind turbine of 20 feet.

4) Wind turbines shall be of a non-reflective, unobtrusive color with a non-reflective finish and may be required to be painted or otherwise camouflaged to minimize the adverse visual impact.

5) Wind energy facilities shall be evaluated based on neighborhood context and sited so as to minimize the diminution of residential property values and visual/aesthetic impact.

6) Any wind facility which has reached the end of its useful life or has been abandoned shall be removed by the owner. Abandoned is defined as the failure to operate the facility on a continuous and ongoing basis for a period of one year. At the time of removal, the wind facility site shall be reclaimed.

7) Bond or money in escrow must be provided to insure that the cost of wind facility removal is covered.

8) The developer must provide evidence of appropriate insurance in order to protect potential impacts to abutters.

9) Airplane indicator signal shall have the least adverse visual impact as technically feasible.

10) The DRB reserves the right to apply additional conditions as appropriate.

B) Exemptions. A wind energy conversion system consisting of one wind turbine, one tower less than 120 feet in height above grade excluding the wind turbine itself, and associated control or conversion electronics, which has a rated capacity of not more than 100kW, and which is intended

to primarily reduce on-site consumption of utility power shall be exempt from the provisions of this Section.

Section 5.9: Junkyards

Junkyards are prohibited in every zoning district. However, junkyards conforming to the bylaws in effect at the time they commenced operation, or junkyards pre-existing zoning regulations in Enosburgh may continue subject to the requirements of Section 4.6.

Article 6. Planned Unit Development

Section 6.1: Purpose

In accordance with the Act, the DRB is permitted to modify this bylaw for a planned unit development (PUD). The purpose of this provision is to encourage clustering and other innovation in design and more efficient uses of land, to facilitate the adequate and economic provision of streets and utilities, and to preserve the natural and scenic qualities of the town.

Section 6.2: Application & Review Procedures

A) To qualify, a PUD project shall:

1) Be an allowed (permitted or conditional) use for the district in which it is to be located;

2) Contain at least 3 acres, contiguous or non-contiguous; and

3) Conform to the definitions herein and to the requirements the Act. A PUD allows for any combination of uses allowed in the zoning district in which it is located.

B) **Application Procedure.** In addition to the submission requirements for major or minor subdivisions, PUD proposals shall be submitted to the DRB and shall include a site plan showing the location and general designs of all structures, open spaces, landscaping, driveways, streets, parking areas, easements and all other physical features, together with a statement setting forth the nature of all proposed modifications of this bylaw.

C) Upon approval of the Planned Unit Development by the DRB, the necessary modifications of this bylaw shall be noted in a report and, together with the approved proposal, submitted to the DRB for a public hearing under conditional use review. All other provisions of this bylaw not specifically modified shall remain in force and be applicable to this project.

D) As provided in the Act, Section 4407 (12), the DRB may prescribe from time to time, supplementary rules and regulations for any planned unit development. The DRB shall hold public hearings prior to the establishment of any such rules and regulations.

Section 6.3: General and Specific Standards

A) Planned Unit Developments shall be reviewed under the following general conditions and standards during DRB review of the subdivision plat under the Town Subdivision Regulations:

1) The project shall be consistent with the Town Plan, and the predominant uses of the site shall not differ from the uses allowed in the district in which the project is located.

2) Density may vary within the development, however, in any PUD, the number of dwelling units shall not exceed the number which could be permitted if the land were subdivided into lots in

conformance with the applicable district requirement of this bylaw, unless granted a density bonus under Section 6.5.

3) The dwelling units permitted may, at the discretion of the DRB, be of various types including one-family, two-family or multi-family construction. Mixed uses shall be so arranged as to be compatible, and to insure visual and aural privacy for the residents to the development and for adjacent properties. The minimum setback requirements for the district in which the project is located shall apply to the periphery of the development.

4) The DRB shall require that a reasonable percentage of the land be utilized for open space, recreation areas or necessary municipal purposes, as set forth in Section 6.4. The amount of land so designated shall be determined by the DRB on the merits, purpose, and conditions of the individual proposal. The DRB may establish conditions on the ownership, use, and maintenance of said lands as it deems necessary to assure preservation for their intended purposes.

5) Layout of lots and streets shall at least meet the review standards under Section 620 & 640 of this bylaw.

6) The project shall be an efficient and unified treatment of the development possibilities of the site, and appropriate provisions shall be made for the following:

   a) Roads, culverts and ditching in accordance with the Selectmen's specifications;

   b) Water supply, sewage and solid waste disposal, drainage, traffic flow and parking, and the layout of the facilities so that public services can be economically and effectively provided; and

   c) Preservation of streams and stream banks, steep slopes greater than 25%, wet areas, soils unsuitable for development, forested areas, and unique natural and cultural features.

B) The following **specific standards** may be required for the approval of PUD's in addition to the general conditions listed above:

1) Further restrictions on the height and spacing between buildings.

2) Greater setback and screening requirements for structures and parking areas and other development along the perimeter of the PUD and between the development areas and the common open space areas.

3) Provision of adequate pedestrian facilities.

4) Building envelopes may be required for present and future phases.

Section 6.4: Open Land

A) The location(s), size and shape of lands set aside for open space shall be approved by the DRB. Provision of open space shall include but not be limited to the following:

1) Open space land shall provide for the protection of resources on the site including agricultural land, productive woodland, wildlife habitat, natural areas, aquifer protection areas, wetlands, views and vistas, streams, stream banks, bodies of water, and historic sites.

2) The location, shape, size, and character of the open space land shall be suitable for its intended use. Open land may be held in single ownership or common ownership.

3) Open space land shall be suitably improved and/or maintained for its intended use, except for open space containing natural resources worthy of preservation which may be required to be left unimproved. Provisions shall be made to enable lands designated for agriculture and forestry to be utilized for these purposes. Management plans for forestry and wildlife habitat may be required.

4) Land shown as open space shall be protected for its intended use through a mechanism approved by the DRB, such as the granting of a conservation easement to the Town. All costs for creating and maintaining open space are the responsibility of the land owner.

5) The DRB shall consider the following guidelines when establishing open space area requirements: for PUD parcels of 3 to 100 acres in size, open space areas are recommended to be 15% to 50+% of the total area; for PUD parcels over 100 acres in size, open space areas are recommended to be 50+% of the total area.

6) Open space land shall be located so as to conform with and extend existing and potential open space on adjacent lands.

7) Additional measures that may be imposed to protect resources identified on the parcel include, but are not limited to, restrictions on building sites through designation of building envelopes and clearing limits.

8) The DRB shall require the Town or suitable third party be a party to legal mechanisms for the protection of open space. In certain cases the DRB may require a third party to be party to the agreement. All costs associated with administering and maintaining the open space shall be born by the applicant.

9) Sewage disposal and water supply areas and road rights of way shall not be counted as open space areas, except where the applicant can prove, to the satisfaction of the DRB, that the sewage disposal, water supply facilities and road right of way will in no way disrupt or detract the values for which the open space is to be protected.

10) Areas in agricultural and productive woodland should be of a size that retains their eligibility for State tax abatement programs.

Section 6.5: Density Bonus

A) In order to encourage the creation of perpetually affordable elderly housing, the DRB may grant a density of up to 20% beyond the number of building lots or dwelling units permitted in a PUD for the number of dwelling units in a development that are designated perpetually affordable elderly. In order to maintain the health and safety of the community, density increase for affordable elderly housing shall be allowed only as a PUD. All affordable elderly building lots and dwelling units shall be kept perpetually affordable and for use by the elderly through a mechanism satisfactory to the DRB.

B) In order to encourage the creation of perpetually affordable housing, the DRB may grant a density of up to 20% beyond the number of building lots or dwelling units permitted in a PUD for the number of dwelling units in a development that are designated perpetually affordable. All affordable building lots and dwelling units shall be kept perpetually affordable through a mechanism satisfactory to the DRB.

C) In order to encourage the sound management of open space, the DRB may grant a density bonus of up to 20% beyond the number of building lots or dwelling units otherwise permitted. PUDs that exceed the minimum requirements of these regulations for the protection of significant natural areas and reducing fragmentation, and/or PUDs that provide specific plans for long term management of open space for timber resources, wildlife habitat or agricultural use are eligible for a density bonus. The DRB is not required to grant a density bonus and will only do so if the additional dwelling unit(s) will not cause an undue adverse affect on the character of the area.

ARTICLE 7. SUBDIVISION REVIEW

A) Applicability. Pursuant to the Act, all subdivisions of land and boundary adjustments within the Town of Enosburgh require Subdivision Approval according to this Article.

B) Purpose. These subdivision regulations establish rules for the subdivision of land to assure that lots created and uses developed have an adequate water supply, means of sewage disposal, utilities and have access to the public street system. They establish standards for subdivision design including the design of streets, storm drainage, water and sewage disposal systems, installation of utilities, and a requirement that the subdivider provide a financial guarantee for the construction of all necessary improvements. The purpose and intent of these subdivision regulations is also to safeguard the public health, safety and welfare of the community, to encourage well-planned, stable neighborhoods, and to protect the Town's natural and cultural environment. More specifically:

1) To conform to and/or to implement the Enosburgh Town Plan.

2) To ensure conformity and compatibility with the Zoning Bylaws and other land use rules of the Town of Enosburgh.

3) To protect and provide for the health, safety, and general welfare of the Town of Enosburgh.

4) To guide the future growth and orderly development of the Town.

5) To encourage subdivision design which protects steep slopes, surface waters, wildlife habitat, wetlands, native vegetation, existing landforms, and the Town's historical and archeological resources.

6) To provide the most beneficial relationship between uses of land and buildings and the safe and convenient movement of pedestrian and vehicular traffic.

7) To provide for the preservation, protection, and/or conservation of natural resources such as wildlife habitat, wetlands, and natural vegetation, and to encourage the wise use and management of natural resources in order to preserve the integrity, stability and beauty of the Town and the value of land.

8) To provide for public facilities and services such as parks, open spaces, recreation areas, schools, police and fire protection, emergency medical care, off-street parking, water supply, and sewage disposal.

9) To insure that existing public services and facilities are available, will be available, and will have sufficient capacity to serve any proposed subdivision.

10) To require, as appropriate, the cost of improvements necessary for the development of a proposed subdivision and of benefit to its eventual residents be paid by the proponent of such development.

11) To further the purposes contained in the Vermont Planning and Development Act (the "Act"), and in particular those purposes set forth in Section 4302 thereof.

Section 7.1: Application Requirements

A) Submission Requirements. For all subdivisions (including boundary adjustments), one original set of application materials is required for submission under this Section. The DRB may request additional copies. A set of application materials includes:

1) A completed Town of Enosburgh Application Form;

2) The application fee according to the fee schedule adopted by the Enosburgh Selectboard;

3) A set of site plans that include all the information required in Table 7.1;

4) Adjoiner Information Form (abutting property owner information); and

5) Any additional materials that may be required according to Table 7.1 or by the DRB.

B) Application Material Waivers. The DRB may waive or vary application submission requirements it judges are not requisite in the interest of the public health, safety, and general welfare, or which are inappropriate both in the short and long term. No such waiver shall be granted if it would have the effect of nullifying the intent and purpose of the Town Plan or the Enosburgh Development Bylaws.

Text Box 7.1

Plan and Survey Plat Specifications

Sketch Plans. An informal sketch of the proposed subdivision, the purpose of which is to enable the subdivider to save time and expense in reaching general agreement with the DRB on the design of the subdivision and objectives and requirements of these regulations. Sketch plans shall include basic information as required in Table 7.1 and may be hand drawn.

Size and number of copies: No size requirement. One original copy is required, the Zoning Administrator may require additional copies.

Plot Plans. A plot plan is a detailed illustration of the proposed subdivision, which may be one sheet or many sheets as necessary to make the information clear and legible. Plot plans shall be drawn to scale and include detailed information as required in Table 7.1.

Size and number of copies: One original 18 inches by 24 inches or larger, additional copies may be required and may be reduced as specified by the DRB during Sketch Plan Review, or by the Zoning Administrator.

Survey Plat. A map surveyed to scale on Mylar by a licensed land surveyor for filing in the Town's land records. It shall clearly depict one or more parcels, tracts or subdivisions of land, showing, but not limited to, boundaries, corners, markers, monuments, easements and other rights. Survey Plats shall be prepared according to Section 7.3(A) and 27 V.S.A. Section 17.

Table 7.1 Subdivision Sketch Plan/Plot Plan Requirements					
✓ – the item is required NA – the item is not required	Sketch Plan Review	Boundary Adjustment	Minor Plot Plan Review	Preliminary Major Plot Plan Review	Final Major Plot Plan Review
Note: Information required in this Table may be prepared on 1 or more sheets, as necessary to make the information clear and legible.					
Required Form	**Sketch Plan**	**Survey Plat[1]**	**Plot Plan**	**Plot Plan**	**Plot Plan**
Site Context Map - showing the project location in the context of the surrounding area	✓	✓	✓	✓	✓
Title Block – including the following information:	✓	✓	✓	✓	✓
Project Title	✓	✓	✓	✓	✓
Plan Title (Overall site plan, utilities, stormwater, etc)	✓	✓	✓	✓	✓
Location Description	✓	✓	✓	✓	✓
Site Address	✓	✓	✓	✓	✓
Name of Landowner	✓	✓	✓	✓	✓
Name of Developer/Client (If different than landowner)	✓	✓	✓	✓	✓
Scale 1”=200’ for sites <100 acres 1”=400’ for sites +/> 100 acres	✓ **Approximate**	✓	✓	✓	✓
Name, Title, License Number, and Stamp of Surveyor, VT Licensed Engineer, Architect, or Landscape Architect who prepared the plan (if applicable)	**NA**	✓	✓	✓	✓
North Arrow	✓	✓	✓	✓	✓
Date of preparation and record of any revisions	✓	✓	✓	✓	✓
Relevant Planning and Zoning Information, including zoning district, density analysis (how many lots/units allowed according to zoning standards), setbacks, parking standards, etc.	✓	**NA**	✓	✓	✓
Area of land in square feet or acres for each tract, lot, structure, and large feature.	✓ **Approximate**	✓	✓	✓	✓
Contour lines at intervals of 10 feet (unless waived or modified by DRB)	**NA**	**NA**	✓	✓	✓

Table 7.1 Subdivision Sketch Plan/Plot Plan Requirements					
✓ – the item is required NA – the item is not required	Sketch Plan Review	Boundary Adjustment	Minor Plot Plan Review	Preliminary Major Plot Plan Review	Final Major Plot Plan Review
1 – For approval of a Boundary Adjustment, the applicant may submit a Survey Plat for review by the DRB, rather than a Plot Plan. All other subdivisions require final approval of a plot plan by the DRB before a Survey Plat is required for filing in the land records.					
Lot and tract identification – boundaries for entire tract, lot lines for each existing and proposed lot, and for any involved land (access roads, easements, rights-of-way, and any open space or mitigation land). Existing and proposed lots should be differentiated. Each lot should be given a number for reference.	✓ **Approximate**	✓	✓	✓	✓
Property Boundary Survey Signed and Stamped by Licensed Land Surveyor – Property boundary surveys are required for all new subdivided lots. Property boundary surveys are required for the entire parent parcel (original lot from which lots are subdivided) when: -it is 10 acres or less in size, and/or -greater than 50% is subdivided into lots	NA	✓	✓	NA	✓
Adjacent property and owners – all adjacent lands should be labeled with the name of the property owner(s).	✓	✓	✓	✓	✓
Existing Site Analysis- man-made features (i.e. non-portable features of the landscape) –public land; conservation easements; utility infrastructure and power lines; farm roads logging roads, sidewalks and trails; streets and private roads and driveways; existing structures; historic structures including cellar holes, stone walls, earthworks and graves; foundations, walls and wells; easements and other encumbrances; and any other existing features.	✓ **Approximate**	✓ **Approximate**	✓	✓	✓
	For sites less than 100 acres in area include features within 1,000 feet of the site. For sites of 100 acres or more, include features within 2,000 feet of the site.				

Table 7.1 Subdivision Sketch Plan/Plot Plan Requirements					
✓ – the item is required NA – the item is not required	Sketch Plan Review	Boundary Adjustment	Minor Plot Plan Review	Preliminary Major Plot Plan Review	Final Major Plot Plan Review
Existing Resources- natural features (i.e. non-portable features of the landscape) – Streams, ponds, and wetlands; forest boundaries, fields, large trees, and rock outcroppings; ridge lines; prime agricultural soils; watershed boundaries; geological formations including rock outcroppings, cliffs and sinkholes; slopes between 15-25 %; slopes greater than 25%; meadow, pasture and hedgerows; and any other existing features.	✓ Approximate	✓ Approximate	✓	✓	✓
	For sites less than 100 acres in area include features within 1,000 feet of the site. For sites of 100 acres or more, include features within 2,000 feet of the site.				
The proposed project – (i.e. all improvements planned for one or more related sites and which fall under the purview of these Regulations) – All proposed buildings, roads, driveways and parking areas, landscaping, utilities, signs, dumpsters, tanks, lights, water supplies, and septic systems.	✓ Approximate	NA	✓	✓	✓
Mitigation measures – Any stream or wetland buffers, or agricultural or wildlife habitat easements, or other areas required to be set aside for preservation/conservation.	✓ Approximate	NA	✓	✓	✓
Off-site Improvements that may be required locally or by the state, such as improvements that mitigate traffic impacts like a turning lane, or construction, buffers, landscaping or other mitigation within an adjacent easement or leased area.	✓ Approximate	NA	✓	✓	✓

Table 7.1 Subdivision Sketch Plan/Plot Plan Requirements					
✓ – the item is required NA – the item is not required	**Sketch Plan Review**	**Boundary Adjustment**	**Minor Plot Plan Review**	**Preliminary Major Plot Plan Review**	**Final Major Plot Plan Review**
Building envelopes, reserve areas, and open space. "Building envelopes" delineate the general area development is proposed. "Reserve areas" are those set aside for future development or expansion. "Open space" is any area set aside to satisfy the open space requirement for PUD approval.	✓ **Approximate**	**NA**	✓	✓	✓
Public rights-of-way and easements	✓ **Approximate**	✓	✓	✓	✓
Specialized Plans/Plats					
Resource Impact and Conservation Plan: Categorize the impacts of the proposed subdivision and land development on resources shown in the Existing Site Analysis and Existing Resources Analysis. This plan shall clearly demonstrate the applicant has minimized site disturbance to the greatest extent practicable. Impact areas shall be mapped according to the following categories: (l) primary impact areas, i.e., areas directly impacted by the proposed subdivision, (2) secondary impact areas, i.e., areas in proximity to primary areas which may be impacted, and (3) designated protected areas.	**NA**	**NA**	**NA**	✓ **Preliminary**	✓ Include measures taken to minimize and control impacts during and after construction and qualifications of preparer
Utility Plan – Location of water and sewer improvements and easements, including force-mains, pump stations, and underground electric and telephone lines.	**NA**	**NA**	✓	✓	✓

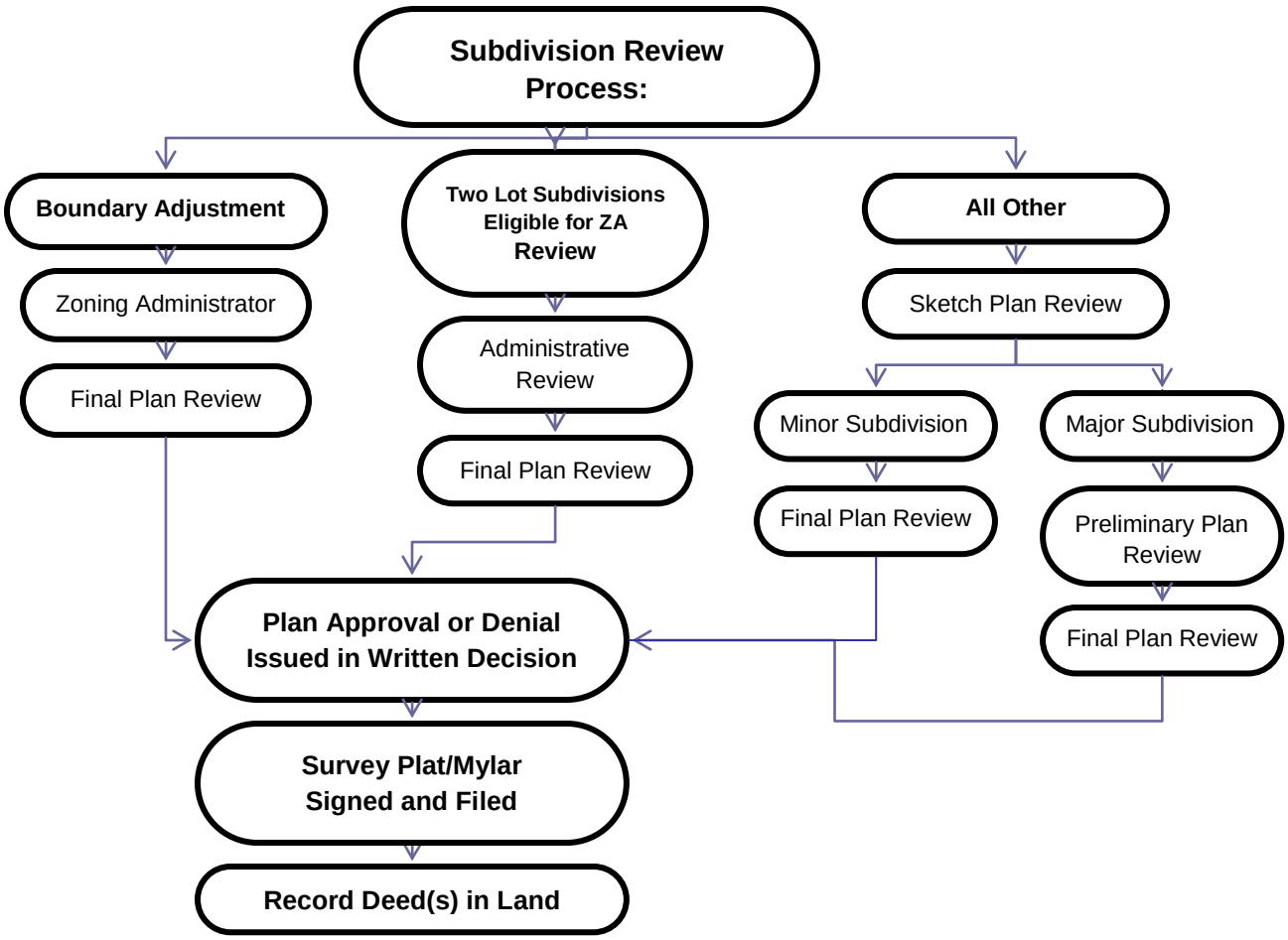
Table 7.1 Subdivision Sketch Plan/Plot Plan Requirements					
✓ – the item is required NA – the item is not required	Sketch Plan Review	Boundary Adjustment	Minor Plot Plan Review	Preliminary Major Plot Plan Review	Final Major Plot Plan Review
Grading and Erosion Control Plan – Locations where sediment must be trapped before entering a watercourse and the devises used to impede erosion (i.e. silt fencing, hay-bale or stone dams around catch basins and at intervals in swales and ditches).	NA	NA	✓	✓	✓
Stormwater Management Plan – Detail on collection, retention, and treatment of stormwater. Should show site grades, direction of drainage flow, and design of any detention basins.	NA	NA	✓	✓	✓
Road and Bike/Pedestrian Plan – Current and proposed grades for the installation of roads, driveways, sidewalks, bike lanes, and other pedestrian amenities. Should show cross sections of proposed roads and sidewalks.	NA	NA	✓	✓	✓
Landscaping Plan – Locations for existing and proposed vegetation, as well as structures, features, and other topographical information. Scientific and common names for proposed species should be identified. Areas proposed for clearing and no-cut zones should be identified.	NA	NA	✓	✓	✓
Lighting and Signage Plan – Locations and illumination of exterior lights. Location and dimensions of all exterior signs.	NA	NA	NA	✓	✓
Garbage Collection Plan – Location for garbage collection and method for containing garbage put out for pick-up.	NA	NA	✓	✓	✓
Architectural elevations for commercial and multi-family residential buildings – Renderings of the project's physical appearance as seen from the east, west, north, and south viewpoints.	NA	NA	✓	✓	✓

Table 7.1 Subdivision Sketch Plan/Plot Plan Requirements					
✓ – the item is required NA – the item is not required	Sketch Plan Review	Boundary Adjustment	Minor Plot Plan Review	Preliminary Major Plot Plan Review	Final Major Plot Plan Review
Transportation Impact Study – A report analyzing anticipated roadway conditions with and without the proposed project. The report may include an analysis of mitigation measures and a calculation of fair share financial contributions.	NA	NA	NA	NA	As Required
Master Plan - an indication of proposed roads, driveways or streets, the future probable lot lines and building envelopes of the remaining portion of the tract, and a description of the probable uses (drawn in sketch plan format).	NA	NA	NA	As Required	As Required
Legal Documents – A draft of all newly created or revised deeds, covenants, or other legal documents associated with the proposed development.	NA	✓	✓	As Required	✓
Common Area Ownership and Management Plan- detailing the entities responsible for maintaining various elements of the property and describing management objectives and techniques.	NA	NA	NA	As Required	As Required

Section 7.2: Review Process

A) Overview. Detailed review process requirements for boundary adjustments, two lot subdivisions, minor subdivisions, and major subdivisions are included in this Section. The Subdivision Review process differs by subdivision type. See Figure 7.1 below for an overview.

Figure 7.1



B) Boundary Adjustments. A Boundary Adjustment is the adjustment of property lines between adjacent lots, which:

a) Does not create any new lots;

b) Does not create any non-conforming lots; and

c) Does not impact access to any parcel.

1) **Administrative Review Standards.** Upon submission of a complete application for a Boundary Adjustment between two or more properties, proper payment of fees, and submission of all required supporting documentation; the following actions will take place:

   a) The Zoning Administrator shall conduct an Administrative Review of the proposed Boundary Adjustment and, if finding that the proposal meets all the applicable requirements of these Regulations, shall submit a written recommendation and draft decision to the DRB for approval of the Boundary Adjustment Survey Plat.

   b) The DRB will hold a public hearing, warned in accordance with the Act, to consider the Zoning Administrator's recommendation and either approve and sign the written decision and Boundary Adjustment Survey Plat, make amendments, or deny the boundary adjustment. When amendments are required, the written decision shall be issued within forty-five (45) days in accordance with Section 10.1(E). The applicant shall file the Survey Plat in accordance with Section 7.3(A).

C) Two Lot Subdivisions. Upon the submission of a complete application for the subdivision of a parcel of land into no more than two lots, proper payment of fees, and submission of all required supporting documentation; the Zoning Administrator may conduct an Administrative Review of the proposed subdivision and make a recommendation to the DRB for approval of the project final plan. This Administrative Review replaces the normal subdivision requirement for a formal Sketch Plan Review by the DRB.

1) **Qualification for Administrative Review.** To be eligible for Administrative Review, projects shall meet all of the conditions listed below. If, prior to or during the process of conducting the Administrative Review, the Zoning Administrator determines that the project fails to meet any of the conditions listed below, or that some other unusual condition exists, the Zoning Administrator will refer the project to the DRB, which shall commence the review process following the normal subdivision procedures.

   a) The parcel being subdivided has not received prior Subdivision Approval from the Town within the last five years.

   b) The parcel being subdivided has not been part of a Boundary Adjustment within the past five years.

   c) The subdivision is not a PUD.

   d) The subdivision does not create any new roads (public or private) or cause an existing driveway to be classified as a road.

   e) The intended use of the subdivided parcels is residential.

f) The proposed lots conform to all the standards of these Regulations regarding lot shape, size, frontage, and density.

g) No prior condition exists which would prevent subdivision of the parcel.

2) **Administrative Review Standards.** If the Zoning Administrator finds that the proposed project meets all of the above conditions and does not call for a novel or difficult interpretation of these Regulations, he/she may conduct the Administrative Review. The Administrative Review shall consider whether the proposal meets all applicable requirements of these Regulations.

a) Following the review, the Zoning Administrator shall present a draft written decision with appropriate conditions to the DRB.

b) The DRB will then schedule a public hearing, warned according to the Act, to review the draft decision and either deny the subdivision, make amendments, or approve the subdivision and sign the written decision and Survey Plat. When amendments are required, the written decision shall be iZoning Administratorssued within 45 days in accordance with Section 10.1E. The applicant shall file the Survey Plat in accordance with Section 7.4.

D) Pre-Application Meeting. An optional pre-application meeting is encouraged between the applicant, the site designer (where applicable), and the Zoning Administrator, to introduce the applicant to the Town's regulations and procedures, to discuss the applicant's objectives, and to schedule any site inspections, meetings, and plan submissions. Applicants are also encouraged but not required to present the Existing Natural Resources and Existing Site Analysis at this meeting.

Text Box 7.2

Subdivision Classification

Boundary Adjustment - Adjustment of property lines between adjacent lots that does not create any new lots, does not create any non-conforming lots, and does not impact access to any parcel.

Two Lot Subdivision - The subdivision of a parcel of land into no more than two lots, which qualifies for Administrative Review according to Section 7.2(C)(1).

Minor Subdivision - Any subdivision which

- No public or private street is constructed or is required to be widened;
- No other completion of public improvements or guarantee thereof is required other than individual on-lot stormwater management systems;
- No earthmoving activities will take place except those incidental to construction of a single-family dwelling on each lot; and
- No more than three (3) lots are created

Major Subdivision – A subdivision which does not meet the definition of a minor subdivision.

E) Sketch Plan Review. All subdivisions except Boundary Adjustments and Two Lot Subdivisions eligible for Administrative Review under (B) and (C) above require Sketch Plan Review by the DRB according to this Section.

1) **Public Hearing.** A public hearing shall be held by the DRB at the earliest available regular or special meeting after the time of submission to the Zoning Administrator a complete application for sketch plan review. The hearing shall be warned according to Section 10.1 D.

   The subdivider, or duly authorized representative, shall attend the public hearing to discuss the requirements of these Regulations for lot layout, building location, streets, improvements, stormwater management, fire protection, resource protection, and other aspects; as well as the availability of existing services and conformance with the planning standards of these Regulations.

2) **Classification as Major or Minor Subdivision.** The DRB shall classify the sketch plan at the public hearing as either a Minor Subdivision or a Major Subdivision.

3) **Action on Sketch Plan.** The DRB shall study the Sketch Plan to determine whether or not it conforms to these Regulations and any other municipal regulations in effect. Where it deems necessary, the DRB will make specific recommendations for changes in subsequent submissions. Where necessary for the protection of the public health, safety, and welfare, the DRB may require that a Minor Subdivision comply with all or some of the requirements for Major Subdivisions specified in these Regulations.

4) **Site Visit.** At the Sketch Plan Review meeting, the DRB may request a site visit. The applicant will be asked to mark significant aspects of the proposal for DRB observation. The public will be invited to attend, but no testimony or evidence may be given at the site visit.

5) **Number of Reviews.** Additional Sketch Plan Review public hearings will be permitted at the mutual discretion of DRB and applicant. This is to ensure the most complete and efficient review of projects, to save resources for both the applicant and the Town, and to provide public and municipal input at the earliest stages of project development.

6) **Master Plan Review**

   a) When part of a larger parcel is proposed for development, the DRB may require a description of the potential build-out of the entire parcel and adjacent parcels (Master Plan) as part of the requirements established after Sketch Plan Review.

   b) When required, the Master Plan build-out shall include an indication of proposed roads, driveways or streets, the future probable lot lines and building envelopes of the remaining portion of the parcel, and a description of the probable uses. The build-out may be drawn in

a sketch plan format. The DRB may require that the build-out be submitted as part of an extended sketch plan review, or as a part of the preliminary or final plan.

c) Requirements for Master Plan review are intended to ensure the orderly development of the Town, and will be required when the DRB determines that the development currently under application may have an impact on the future development potential of the remaining parcel or adjacent parcels. It will also be required when the DRB determines that the future build-out of the applicant's holdings, combined with the current proposal may have a significant impact on the Town of Enosburgh.

d) Approval of an applicant's current application does not constitute approval of the Master Plan build-out.

F) Minor Subdivision Review

1) **Application Process.** Within 6 months of classification of the Sketch Plan as a Minor Subdivision by the DRB, the subdivider shall submit application materials for approval of a Minor Subdivision Plan to the Zoning Administrator. Complete application materials shall contain those items set forth in Table 7.1 of these Regulations. The Plan shall conform to the layout approved at Sketch Plan Review plus any recommendations made by the DRB and agreed upon by the applicant. At the expiration of 6 months from classification by the DRB, the subdivider shall be required to resubmit a Sketch Plan Application, unless an extension of up to six months has been requested in writing before expiration and is granted by the DRB.

2) **Public Hearing and Final Approval.** The DRB must hold a public hearing on Final Plan Approval of a Minor Subdivision before issuing a decision in accordance with these Regulations. Public notice, public hearing, and decision requirements in Section 10.1 apply.

G) Major Subdivision Review

1) **Preliminary Plan Application Process.** Within 6 months of classification of the Sketch Plan as a Major Subdivision by the DRB, the subdivider shall submit complete application materials for approval of a Preliminary Plan for a Major Subdivision to the Zoning Administrator. Complete application materials shall include those items set forth in Table 7.1 of these Regulations and any additional information required by the DRB as a result of Sketch Plan Review. The proposal in the application materials shall conform to the layout approved at Sketch Plan Review, plus any recommendations made by the DRB and agreed upon by the applicant. At the expiration of 6 months from classification by the DRB, the subdivider shall be required to resubmit a Sketch Plan Application unless an extension of up to six months has been requested in writing before expiration and is granted by the DRB.

a) **Preliminary Plan Public Hearing and Approval.** The DRB must hold a public hearing on Preliminary Plan Approval of a Major Subdivision before issuing a decision in accordance with these Regulations. Public notice, public hearing, and decision requirements in 10.1 apply.

b) **Phasing.** At the time the DRB grants Preliminary Plan Approval, it may require the Plan to be divided into two or more phases to be developed at separate times. The DRB may impose specific conditions for the filing of an application for Final Plan Approval to ensure the orderly development of the Plan and coordination with the planned and orderly growth of the Town as reflected in the Town Plan and any capital budget and program in effect.

c) **Effect of Preliminary Plan Approval.** Approval of a Preliminary Plan does not constitute approval of the subdivision and does not guarantee approval of the Final Plan. Prior to approval of the Final Subdivision Plan, the DRB may require additional changes as a result of further study. The approval of a Preliminary Plan is effective for a period of 1 year. Any Preliminary Plan not receiving Final Plan Approval prior to the expiration of 1 year shall be null and void, and the subdivider shall be required to resubmit a new Plan for Sketch Plan Review subject to all new Regulations. Should the DRB impose phasing as a condition of Preliminary Plan Approval, it may extend the 1-year effective period of Preliminary Approval. Any extension of time granted for this reason will be specifically included in the written decision of Preliminary Plan Approval. When requested in writing, the DRB may also grant extensions beyond this 1-year period even for projects not involving phasing, when the delays are due to circumstances beyond the applicant's control.

2) **Final Plan Application Process.** Within 6 months of Preliminary Plan Approval, the subdivider shall submit complete application materials for approval of a Final Subdivision Plan for a Major Subdivision (see Table 7.1). This is necessary to ensure review of Final Plan application materials within the 1-year time frame established in Section 7.2(F)(1)(c) above. Any application materials received beyond 6 months from Preliminary Plan Approval will be subject to any new regulations that have gone into effect. This may cause the application to be sent back to Sketch Plan Review if the new regulations or circumstances have changed in a way that would alter the original decision under Preliminary Plan.

The Final Plan application materials must conform to the layout approved at Preliminary Plan Review, including any amendments required by the DRB. If Final Plan Approval has not been given at the expiration of 1-year from Preliminary Plan Approval, the subdivider shall be required to resubmit a Sketch Plan, unless extended by the DRB under Section 7.2(F)(1)(c) above.

a) **Final Plan Public Hearing and Final Approval.** The DRB must hold a public hearing on Final Plan Approval of a Major Subdivision before issuing a decision in accordance with these Regulations. Public notice, public hearing, and decision requirements in Sections 10.1 apply.

Section 7.3: Requirements After Final Approval

A) Filing of Final Survey Plat. Upon approval of the Final Plan by the DRB, the subdivider shall prepare a Survey Plat for recording in conformance with the requirements of 27 V.S.A. Chapter 17. A Survey Plat is a map drawn to scale on Mylar by a licensed land surveyor of one or more parcels, tracts or subdivisions of land, showing, but not limited to, boundaries, corners, markers, monuments, easements and other rights. A signed certification is required from the licensed land surveyor who prepared the Survey Plat, indicating that all the permanent lot markers (pins) have been set. Survey Plats shall be prepared according to the specifications listed below. Draft paper Survey Plats may be required for approval by the DRB before preparing a Mylar copy for filing.

Survey Plat Specifications:

1) Mylar;

2) Clear and legible data and information;

3) 18.0 inches by 24.0 inches in size;

4) Stamp and signature of licensed Land Surveyor;

5) Margin of one and one half inches outside of the borderlines on the left side for binding and a one half inch margin outside the border along the remaining sides;

6) Inset locus map clearly indicating the location of the land depicted and a legend of symbols used; and

7) Plat scale ratios sufficient to allow all pertinent survey data to be shown, and graphic scale graduated in units of measure used in the body of the plat.

The chairperson (or acting chairperson) of the DRB shall endorse the Survey Plat with the date of Final Plan Approval. Following endorsement by the chairperson of the DRB and within 180 days of the DRB's Final Approval, the subdivider shall submit the Survey Plat to the Town Clerk for filing. The Town Clerk shall endorse the Survey Plat before filing. The DRB's written decision, which includes all permit conditions set by the DRB, shall be filed in the land records of the Town and their location must be clearly referenced on the Survey Plat.

Final Plan Approval shall expire if the subdivider does not receive endorsement and file the Survey Plat and related documents within the 180-day period. The Zoning Administrator, upon written request prior to the expiration date, shall extend the date for filing the Survey Plat by an additional 90 days if final local or state permits or approvals are still pending.

B) Electronic Submission. Upon approval endorsement of the Survey Plat by the DRB Chairperson, the subdivider shall submit to the Town Clerk a CD or DVD with electronic survey files in both DWG and PDF formats.

C) Revisions. No changes, erasures, modifications, or revisions shall be made on any subdivision Final Plan and Survey Plat after Final Approval, unless said Final Plan and Survey Plat are first resubmitted to the DRB in accordance with these Regulations and the DRB approves the modifications. For such revisions, Sketch Plan and where applicable, Preliminary Plan Review, may be combined into Final Plan Review at the DRB's discretion.

D) Acceptance of Public Infrastructure. Final approval by the DRB shall not be deemed to constitute or be evidence of acceptance by the Town of any street, road, easement, utilities, park, recreational area, or open space shown on the Final Plan or Survey Plat. Such acceptance may only be accomplished by formal resolution of the Selectboard.

E) Other Permits and Regulations. Approval of the Final Plan shall not exempt an applicant from compliance with all other applicable local, state, or federal regulations, standards, policies, and ordinances.

Section 7.4: Subdivision Review Standards

A) Application of Standards. The DRB shall evaluate all subdivisions in accordance with the Planning and Design Standards in Article 8. The DRB may require the subdivider to submit data addressing impacts related to these standards. In light of findings made on these standards, the DRB may require modification and phasing of the proposed subdivision or correction of any adverse impacts.

B) Overall Standard of Review. Land shall not be subdivided in such a way that structures, roads, and utilities occur on land that is unsuitable due to flooding, improper drainage, steep slopes greater than 25%, soils that are shallow to bedrock or have a high water table, rock formations, adverse earth formations or topography, utility easements, or other features which will be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas.

C) General Standards. The DRB shall approve the subdivision application only if it determines that these basic standards have been met:

1) The proposal is in compliance with the Enosburgh Town Plan, Zoning Bylaws and any other bylaws and ordinances then in effect.

2) The proposal preserves existing features of the site, retains natural contours, avoids disturbance of streams and natural drainageways, controls erosion, and meets requirements for excavation, grading or fill.

3) The proposal provides access for emergency and other services, provides convenient access to existing amenities, connects to adjacent properties, meets standards for various street types, and maintains suitability of existing roads.

D) Lot Size and Density

1) No lot shall be created that does not meet the minimum lot area (See Section 2.6) of the district in which it is located, unless approved as a PUD.

Text Box 7.3

Density: The number of acres of land area required for a given number of residential units or uses.

2) **Lots Located in More than One Zoning District**. Where a lot is located in two or more zoning districts, the minimum allowed density for the entire lot shall be the aggregate of the allowable density of each portion that is in a separate district.

E) Lot Layout

1) **Lot Shape**. Lots shall be designed with consideration of natural and manmade features such as tree lines, stonewalls, ridgelines, roads, shorelines or other features recognizable on the land. Where this requirement conflicts with D(4) below, this requirement shall govern.

2) **Regularly Shaped Lots**. Regularly shaped lots are required and all lots shall conform to the dimensional standards in Article 2. Lots designed with irregular shapes such as curves, jogs, “doglegs”, “bowling alleys”, or lots that are otherwise contorted in order to circumvent these Regulations are not regularly shaped lots.

3) **Corner Lots**. Corner lots shall have sufficient width to permit a front setback distance along each lot frontage.

4) **Side and Rear Lot Lines**. Side lot lines shall generally be at right angles to straight streets, or radial to curved street lines; variations of up to 15.0 degrees will be accepted. Rear lot lines will be generally parallel to front lot lines; variations of up to 15.0 degrees will be accepted.

5) **Exceptions**. Exceptions may be made from the above (1-4) lot shape requirements only where expressly permitted by the DRB. Exceptions will be approved only when warranted by conditions of topography, protection of natural resources, existing road location and/or shape or use of the tract being subdivided and when, in the judgment of the DRB, no other form of subdivision of the property, including PUD is appropriate or possible without severe hardship to the applicant.

Section 7.5: Homeowners Association

A) A Homeowner's Association Document or a Condominium Association Document shall be provided for all subdivision and land development applications which propose lands or facilities to be used or owned in common by all the residents of that subdivision or land development and not deeded to the town.

B) The elements of the Homeowner's Association Document shall include, but shall not necessarily be limited to the following:

1) A description of all lands and facilities to be owned by the Homeowner's Association. This description shall include a map of the proposal highlighting the precise location of those lands and facilities.

2) Statements setting forth the powers, duties, and responsibilities of the Homeowner's Association, including the services to be provided.

3) A Declaration of Covenants, Conditions, and Restrictions, giving perpetual easement to the lands and facilities *owned* by the Homeowner's Association. The Declaration shall be a legal document which also provides for automatic Association membership for all owners in the subdivision or land development and shall describe the mechanism by which owners participate in the Association, including voting, elections, and meetings. Furthermore, it shall give power to the Association to own and maintain the common property and to make and enforce rules.

4) Statements prescribing the process by which Homeowner's Association decisions are reached and setting forth the authority to act.

5) Statements requiring each owner within the subdivision or land development to become a member of the Homeowner's Association.

6) Statements setting cross covenants or contractual terms binding each owner to all other owners for mutual benefit and enforcement.

7) Requirements for all owners to provide a pro rata share of the cost of the operations of the Homeowner's Association.

ARTICLE 8. PLANNING AND DESIGN STANDARDS

Section 8.1: Applicability

The DRB shall evaluate Site Plan Review and Subdivision Applications against the following Planning and Design Standards, which are listed alphabetically. In applying these standards, the DRB may:

A) Establish design, phasing and/or permit conditions to avoid or mitigate any adverse impacts and to ensure conformance with these standards.

B) Require a certificate from a Vermont Licensed Engineer as to the satisfactory completion of any required improvements and/or a performance bond or equivalent surety to secure completion of such improvements and their maintenance. The DRB shall determine the amount and terms of performance bonds, but in no case shall the terms run longer than three years. Performance bonds shall be accompanied with a certificate from the Selectboard that it is satisfied either with a bonding or surety company, or with security furnished by the applicant.

Section 8.2: General Standards

A) General Standards. The DRB shall approve subdivision and site plan applications only if it determines that these basic standards have been met:

1) The proposal is in compliance with the Enosburgh Town Plan, Zoning Bylaws and any other bylaws and ordinances then in effect.

2) The proposal preserves existing features of the site, retains natural contours, avoids disturbance of streams and natural drainageways, controls erosion, and meets requirements for excavation, grading or fill.

3) The proposal provides access for emergency and other services, provides convenient access to existing amenities, connects to adjacent properties, meets standards for various street types, and maintains suitability of existing roads.

4) The proposal provides sidewalks or recreation paths to accommodate pedestrian circulation and meets standards for construction of walkways and curbs.

5) The proposal lays out lots and building envelopes that consider topography, soils and drainage conditions; that avoid development of floodplains, wetlands or other unbuildable land; and that meet the standards of the Bylaws.

6) The proposal provides easements where necessary to facilitate pedestrian circulation.

7) The proposal meets Town requirements for construction and location of utility lines and outdoor lighting fixtures.

8) The proposal minimizes storm water runoff, accommodates upstream development, prevents overload on downstream drainage facilities, and meets requirements for construction of drainage facilities.

9) The proposal provides open space as required by the DRB.

Section 8.3: Site Preservation and Erosion Control

A) Site Preservation, Grading and Excavating

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

2) **Vegetation and Natural Cover.** Land shall be subdivided and developed to minimize grading and cut and fill, and to retain, to the degree possible, the natural contours. Wherever possible, the natural cover shall be conserved and stormwater runoff shall be limited. Vegetation such as trees and shrubs shall be retained or may be reasonably required by the DRB for screening and aesthetic purposes. The DRB may require that suitable hardwood shade trees be planted along the streets where trees do not exist at intervals of at least 40 feet.

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

   a) Within areas designated for a building envelope and for an access drive, tree removal may be permitted as needed to accommodate the purposes of the lot.

   b) Mature trees that can be saved should be welled and protected against changes in grade.

   c) Outside the area designated for a building envelope, the DRB may limit tree removal if it determines that such removal would cause soil erosion or would adversely affect ridgelines or other scenic views, screening for abutting properties, or significant habitat sites. When tree removal is permitted to create view corridors, it should be accomplished with narrow view openings between trees and beneath tree canopies rather than with large openings. Selective cutting of small trees and the lower branches of large trees is preferred over the removal of mature trees

   d) Tree removal, either within or outside the area designated for a building envelope, shall not be permitted where the DRB determines that it would adversely affect the scenic qualities of a ridgeline.

4) **Swales, Springs, Streams, Drainageways and Other Lowland Areas.** Swales, springs and other lowland areas are resources that warrant restrictive land use controls because of flooding hazards to human life and property, their ground water recharge functions, their importance to

water quality and the health of aquatic communities, and their wildlife habitats. They are generally poorly suited for on-site subsurface sewage disposal systems. The following activities shall be minimized:

a) Disturbance to streams and drainage swales.

b) Disturbance to year-round wetlands, areas with seasonally high water tables, and areas of surface water concentration.

c) Because of their extreme limitations, stream valleys, swales and other lowland areas warrant designation as open space. They may also require adjoining buffer lands to be included in the open space, to be determined by an analysis of the protection requirements of such areas on a case-by case basis.

d) In certain instances, seasonal high water table soils may be excluded from the open space where it can be demonstrated that they are suitable for low density residential uses and conventional on-site sewage systems.

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

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

7) **Fill.** No stumps, wood, roots or other fibrous materials shall be used as fill except in an area stipulated for no development. A stump dump may be permitted only if the DRB determines that its location will cause no adverse environmental effects. The DRB may require the subdivider to submit evidence of boring and/or other soil investigations to determine the depth, composition and stability of the subgrade within road sections or where homes are to be located.

B) Steep Slopes. Development on slopes in excess of 15 % must comply with the requirements in Section 4.8.

Section 8.4: Streets and Roads

A) Required Road Improvements. Design of streets, roads and driveways serving three or more lots shall conform to Town and State of Vermont approved standards and shall be constructed logically in relation to the topography so as to provide safe intersections, grades and alignments, and adequate drainage. As a condition of approval of any development, the applicant shall be required to provide the following street improvements:

1) Construction of all new public and private roads shall coordinate with existing and future appropriate development adjacent to tracts.

2) Construction of all new public and private roads shall avoid long, dead-end roads. Wherever possible, roads shall be laid out to coordinate with existing and future appropriate development of adjacent tracts, to use 3-way and 4-way intersections, and to avoid cul de sacs. Through traffic should be controlled by utilizing traffic calming techniques recommended by the VT Agency of Transportation.

3) Construction of roads outside the development necessary to establish a connection between the development and the existing street system shall follow the design and construction standards for such connections to be determined by the Selectboard based on what part they play in the Town's overall street system.

4) Where existing roads provide access between the development and the state highway system, and the existing roads do not meet Town and State of Vermont standards for the traffic volumes which would occur once the development is built, upgrading of existing roads to the Town standards is required for the projected traffic volume.

5) All improvements necessary for street drainage, including but not limited to culverts, drainage pans, inlets, curbs and gutters.

6) Traffic control devices including signs and signals, street name signs, street lighting, striping and pedestrian crosswalks in conformance with the criteria contained in "The Manual of Uniform Traffic Control Devices" as adopted by the State of Vermont.

7) Roads shall be constructed logically in relation to topography so as to produce safe intersections, grades and alignments, and adequate drainage.

8) Street medians and median landscaping, if required.

B) Sidewalks and Curbs

1) A safe and attractive pedestrian environment shall be provided as appropriate to the use. Sidewalks or recreation paths may be required by the DRB where they are deemed necessary to safely accommodate pedestrian circulation within the development or from the development to other points of interest such as schools, parks, shopping areas, etc.

2) **Curbs.** In general, curbs and gutters shall be provided where sidewalks are provided within road rights-of-way. Curbs and gutters may otherwise be omitted only upon recommendation of the DRB and upon demonstration that adequate drainage for streets and sidewalks will be provided. Curbs, gutters and storm drainage grates shall be designed to accommodate safe bicycle travel. Excessive curb cuts shall be minimized and where possible curb cuts and driveways shall be shared with adjoining parcels.

C) Access Requirements

1) 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 emergency.

2) The Development Review Board may require shared access to adjoining properties, or may limit access to the property to a side street or secondary road.

3) Where traffic access is required to only a portion of the land, the Development Review Board may require sharing that access with future uses of the remainder of the parcel.

4) In all districts, curb cuts onto Town roads and state highways shall be strictly in accordance with Vermont Agency of Transportation Standards for Residential and Commercial Drives, Standard B-71. For new curb cuts on local roads an application reviewed by the Road Commissioner and approved by the Selectboard is required. Approval by the Vermont Agency of Transportation is required for new curb cuts on state routes.

5) All roads to be taken over by the Town shall be constructed to meet the Town of Enosburgh Road Standards.

Section 8.5: Circulation, Parking, and Loading Facilities

A) Adequate space for maneuvering in and out of parking and loading areas shall be provided and located so as not to interfere with circulation to and within the site.

B) Parking areas may be required to be landscaped or screened from adjacent uses and from the roads in the vicinity.

C) Parking will be prohibited within the front yard setback area where alternate space for parking is available elsewhere on the lot.

D) Permeable surfaces may be required for proposed parking areas to limit storm water runoff. Relocation or redesign of parking areas may be required to limit runoff and control erosion.

E) Provision shall be made for efficient snow and refuse removal.

Section 8.5: Lot Layout

A) Lots shall be laid out in such a way that they can be developed in full compliance with the Bylaws, giving consideration to topography, soils and drainage condition.

B) Corner lots shall be of sufficient dimensions so that any structure placed on the lot shall conform to the front yard setbacks required on each street by the Zoning Bylaws.

C) Lots without required frontage on a public road, waterway or approved private road shall not be permitted. However, easements or rights of way may be approved by the DRB to serve no more than two lots where the shape of the original parcel makes the provision of public or private roads impracticable, or where requiring frontage would result in adverse impacts on significant wildlife habitat.

D) All lots shall have designated building envelopes that shall not include floodplain, wetlands, streams or drainageways, or other unbuildable land. Dimensions of lots and building envelopes shall be large enough to accommodate the purpose for which they are intended to be used.

Section 8.6: Utilities and Street Lighting

A) Utility Lines

1) Gas, electric, telephone, outdoor lighting and cable television distribution systems are required to be underground. The subdivider shall coordinate subdivision design with the utility companies to ensure that adequate and suitable areas for underground installations are provided, both for the proposed subdivision and for areas adjacent to the subdivision.

2) Where practicable, utility lines that parallel public streets shall share the public right-of-way rather than require additional easements on private property.

B) Street Lighting

1) Outdoor lighting design shall minimize impacts to the night sky. Cut-off luminaries as defined by the Illuminating Engineering Society of North America (IESNA) are required. At certain locations, the DRB shall require side or back shields to minimize light directed to the side or rear of the fixtures. Poles supporting streetlights shall be located so as not to obstruct vision or create a vehicular safety hazard.

2) Illumination levels generated by outdoor lighting shall be sufficient for the purpose intended. Excessive lighting and glare-producing conditions shall be avoided. Spotlights are not generally permitted. High Pressure Sodium lamps are not allowed unless used as an addition to an existing lighting scheme.

3) A uniform level of lighting is required for outdoor applications. Excessively bright areas in contrast with very dark areas shall be avoided in lighting installations.

4) Streetlights shall not be provided except at locations where the DRB determined that a light is required to illuminate a safety hazard. When required, streetlights shall be mounted at heights of no more than 20 (twenty) feet and shall be of a design other than highway oriented “cobra head” fixtures.

5) All exterior lighting shall be subject to an overall lighting plan. The Development Review Board may prohibit fixtures that cause excessive glare within the property or on adjoining properties. They may limit or adjust the number, intensity, and location of fixtures to provide for even treatment of lighting, reduce impacts on the night sky, and to ensure limited impact on surrounding properties.

Section 8.7: Open Space

A) The DRB, pursuant to Section 4417 of the Act, may require as a condition to subdivision approval that the plat show open space suitable located for recreation, pedestrians, or other public common use if the areas so required do not exceed more than fifteen percent of the area of the plat. The DRB shall determine whether such open space(s) shall be designated for private or for general public use. In making its determination, the DRB shall consider the following:

1) The size of the proposed subdivision.

2) The physical suitability of the subdivider's land for use as open space.

3) The minimum area required for such purpose.

Section 8.8: Agricultural Land

A) In order to prevent harm to the scenic and agricultural land resources in Enosburgh, while preserving the rights of the property owner to create the number of building sited allowable within the zone with adequate sewage disposal, the subdivision of lots and the siting on non-agricultural buildings shall be subject to the following:

1) Lots shall be located and sized so as to preserve prime agricultural farmlands to the maximum extent possible; and

2) Buildings and other structures shall not be sited in the middle of open fields, but shall be located in wooded areas, or at the edge of fields or treelines so as to preserve agricultural utilization and scenic views and minimize the loss of open space to the maximum extent possible.

Section 8.9: Groundwater Resources

This section is intended to ensure that the town's limited groundwater resources are protected for purposes of providing water supplies for its residents and businesses, and to protect the base flow of the Town's surface waters. These regulations shall be applied in conjunction with those provided for in other sections of this ordinance, dealing with groundwater conservation and replenishment.

The proposed subdivision and land development of any tract shall be designed to cause the least practicable disturbance to natural infiltration and percolation of precipitation to the groundwater table through careful planning of vegetation and land disturbance activities, and the placement of streets, buildings and other impervious surfaces in locations other than those identified on the Existing Resources and Site Analysis Plan as having the greatest permeability where precipitation is most likely to infiltrate and recharge the groundwater.

Section 8.10: Significant Natural Areas and Features

Natural areas containing rare or endangered plants and animals, as well as other features of natural significance exist throughout the Town. Subdivision applicants shall take all reasonable measures to protect significant natural areas and features either identified in the Town Plan or by the applicant's Resource Impact and Conservation Plan by incorporating them into proposed common areas or avoiding their disturbance in areas proposed for development.

Section 8.11: Development on Steep Slopes

Steep slopes are identified by the Enosburgh Town Plan as 15% or greater and are a constraint to development due to their impact on visual scarring, slope stability, soil erosion, sediment transport and sedimentation, loss of local biodiversity, wildlife potential and harm to water quality and aquatic habitat.

A) The Town prohibits development on slopes greater than 25%. New structures or alteration of existing structures for transportation facilities, transmission lines, and sewer, water and gas lines may be constructed on steep slopes only if no practicable or feasible alternative exists for locating the structure elsewhere. If constructed within the steep slope, soil conservation and water quality plans are required.

B) Before final approval of a subdivision or site plan, an applicant desiring to develop on steep slopes between 15-25% shall provide a map illustrating the approximate acreage of the area, as well as mitigation plan that includes measures that:

1) Avoid placement of such items as parking lots which require large, flat surfaced areas on steep slopes;

2) Modify land uses so site disturbance is minimized;

3) Propose smaller scale rather than large scale development in order to minimize the amount of site disturbance;

4) Design structures so they are stepped or otherwise fit the terrain;

5) Minimize the extent of roads by following the line of existing topography;

6) Group development together to avoid steep slopes;

7) Provide grading and foundation plans prepared by a registered professional engineer; and

8) Provide erosion control, revegetation, and urban runoff control plans.

C) Grading or earthmoving on all sloping lands of 15 percent or greater shall not result in earth cuts of fills whose highest vertical dimension exceeds six feet, except where in the judgment of the DRB no reasonable alternatives exist for construction of roads, drainage structures and other public improvements, in which case such vertical dimensions shall not exceed 12 ft. Roads and driveways shall follow the line of existing topography to minimize the required cut and fill. Finished slopes of all cuts and fills shall be as required to minimize disturbance of natural grades.

Section 8.12: Historic Structures and Sites

Plans requiring subdivision and land development approval shall be designed to protect existing historic resources of all classes. The protection of an existing historic resource shall include the conservation of the landscape immediately associated with and significant to that resource, to preserve its historic context. Where, in the opinion of the DRB, a plan will have an impact upon an historic resource, the developer shall mitigate that impact to the satisfaction of the DRB by modifying the design, relocating proposed lot lines, providing landscape buffers, or other approved means.

Section 8.13: Rural Road Corridors and Scenic Views

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

Section 8.14: Recreational Trails

A) When a subdivision or land development proposal is traversed by or abuts an existing trail customarily used by pedestrians and/or equestrians, the DRB may require the applicant to make provisions for continued recreational use of the trail.

B) The applicant may alter the course of the trail within the tract for which development is proposed under the following conditions:

1) The points at which the trail enters and exits the tract remain unchanged.

2) The proposed alteration exhibits quality trail design according to generally accepted principles of landscape architecture.

3) The proposed alteration does not coincide with a paved road intended for use by motorized vehicles.

C) When trails are intended for public or private use, they shall be protected by a permanent conservation easement on the properties on which they are located. The width of the protected area in which the trail is located should be a minimum of 15 feet. The language of the conservation easement shall be to the satisfaction of the DRB. Width of the trail surface may vary depending upon type of use to be accommodated, but in no case shall be less than three (3) feet or greater than ten (10) feet.

D) An applicant may propose and develop a new trail. Trail improvements shall demonstrate adherence to principles of quality trail design.

E) No trail shall be designed with the intent to accommodate motorized vehicles.

Section 8.15: Landscaping and Screening

The DRB shall require landscaping and/or screening according to the following standards. Landscaping and screening shall be installed within a time frame established by the DRB.

A) Landscaping is required to be installed and maintained in front and side yards uses.

B) Screening is required to shield or obscure commercial and industrial properties where they abut residential properties or public roads.

C) Parking areas for uses other than single and two-family dwellings shall be landscaped and screened from adjacent uses.

Text Box 8.1

***Landscaping* is the enhancement of an expanse of natural land, which may take the form of lawns, trees, plants, and other natural materials such as rock, wood chips, and decorative features.**

***Screening* shields or obscures one abutting or nearby structure or use from another or from a road. It may take the form of landscaping, or other site modifications such as berms, fences, and stone walls.**

D) In determining the amount and type of plantings or other site improvements to be required, the DRB shall take into account at least the following:

1) Existing trees, shrubs, evergreens and other vegetation to be preserved on the site;

2) The landform and overall landscaping plan for the development;

3) Other factors which affect the safety and appearance of the development;

4) The adequacy of landscaping materials to meet seasonal conditions, soil conditions, erosion control, and light on the site; and

5) Adequate setbacks and site grading to insure that plantings are not adversely affected by traffic and road salt.

Section 8.16 Forest Fragmentation

Lot boundaries and development envelopes shall be located and configured to avoid the fragmentation of forestland in parcels greater than 50 acres. Methods for avoiding fragmentation include but may not be limited to the following:

A) Buildings and associated building envelopes shall be located in a fashion that reduces penetration into large forest blocks and building lots should be clustered to avoid the fragmentation of forestland parcels greater than 50 acres.

B) Roads, driveways and utility corridors shall be shared to the extent feasible and designed to avoid or limit forest fragmentation; and, where sites include linear features such as existing roads, tree lines,

stone walls, and/or fence lines, shall follow these to minimize the fragmentation of forestland parcels.

C) The subdivision of forestland shall, to the extent feasible, be configured to allow for ongoing forest management of the parcel after subdivision. Lot boundaries and development envelopes should be laid out to avoid the unnecessary fragmentation of productive timber stands, and provision for forest management access should be a consideration of the final plan if active management is taking place.

ARTICLE 9. FLOOD HAZARD AREA REGULATIONS

Section 9.1: Lands to which these Standards Apply

These standards shall apply to development in the Flood Hazard Overlay District. This District includes the Special Flood Hazard Areas in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), and National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of these regulations.

The location of the Special Flood Hazard Area boundary shall be determined by the Zoning Administrator. If the applicant disagrees with the determination made by the Zoning Administrator, a Letter of Map Amendment from FEMA shall constitute proof.

The provisions of these Flood Hazard Regulations 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.

A) Base Flood Elevations & Floodway Limits shall be determined as follows:

1) Where available, base flood elevations and floodway limits (or data from which a community can designate regulatory 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. District boundaries shall be determined by the Zoning Administrator. Appeals with respect to the district boundaries can be made to the Board of Adjustment in accordance with § 807.

2) In Special Flood Hazard Areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, it shall be the responsibility of the applicant to develop the base flood elevation at the site using data provided by FEMA or available from State or Federal agencies.

3) In Special Flood Hazard Areas where floodways and/or Base Flood Elevations 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 water surface elevation of the base flood 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.

B) Warning and Disclaimer. The Flood Hazard Overlay District standards in this section do not imply that land outside of the areas of special flood hazard or land use permitted within Flood Hazard Overlay District will be free from flooding or flood damages. These standards shall not create liability on the part of the Town of Enosburgh or any town official or employee thereof for any flood damages that result from reliance on the standards of this section or any administrative decision lawfully made thereunder.

Section 9.2: Development Permits in the Flood Hazard Overlay District

A permit is required for all development within the Special Flood Hazard Area. For the purposes of this Section, development is defined as any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials in accordance with Title 44 CFR 59.1.

Table 9.1 Allowable Development in the Flood Hazard Overlay District		
P = Permitted Use C = Conditional Use X = Prohibited	Special Flood Hazard Area	Floodway
New residential or non-residential structures (including the placement of manufactured homes)	C	X
Substantial improvement, elevation, relocation, or flood proofing of existing structures	C	C
Non-Substantial Improvements to existing structures	P	C
Accessory structures	P	C
Building utilities	P	X
New or replacement storage tanks for existing structures	C	X
At grade parking for existing buildings	P	X
Fill as needed to elevate existing structure	P	C
Grading or excavation not otherwise integral to other listed land development; or the creation of a pond	C	X
Bridges, culverts, channel management activities, or public projects which are functionally dependent on stream access or stream crossing	C	C
Improvements to existing roads	C	C
Public utilities	C	X
Recreational vehicles	P	X

A) Exempted Development throughout the Special Flood Hazard Area and Floodway. The following are prohibited throughout the Special Flood Hazard Area, including the floodway:

1) The removal of a building or other structure in whole or in part;

2) Maintenance of existing roads and storm water drainage; and

3) All statutory exemptions in Section 2.5 A) 1-4.

B) Prohibited Development throughout Special Flood Hazard Area and Floodway. The following are prohibited throughout the Special Flood Hazard Area, including the floodway:

1) Storage of any explosive, flammable, hazardous, toxic, or floatable materials, or junk yards;

2) Critical facilities;

3) All development not exempted, permitted or conditionally permitted within the SPHA or Floodway; and

4) New fill except where necessary to elevate structures above the base flood elevation.

Section 9.3: Application Requirements

A) In addition to the application requirements for permitted or conditional uses as applicable, applications for development within the Flood Hazard Area Overlay District shall also include the following information:

1) The location, on the site development plan, and associated elevations of all structures, roads, and water supply and wastewater facilities in relation to the channel, floodway, and base flood elevations;

2) A completed FEMA "Elevation Certificate" prepared by a registered surveyor, engineer, architect or other official authorized by the state to certify building elevations, for any building constructed after the publication of the Town's Flood Insurance Rate Maps;

3) Where flood-proofing is proposed (as allowed only for nonresidential buildings), a completed FEMA "Flood-proofing Certificate" prepared by a registered professional engineer or architect who is authorized by the state to certify flood-proofing design and construction;

4) A hydraulic and hydrologic analysis for any development located within the floodway; and

5) A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

B) In accordance with § 4424 (2)(D) of the Act, no zoning permit for new construction or substantial improvement of land in the Flood Hazard District shall be issued until:

1) A copy of the application is mailed or delivered by the Zoning Administrator or by the Board of Adjustment, to the Agency of Natural Resources; and

2) Either 30 days elapse following the mailing or the Agency of Natural Resources delivers comments on the application.

Any permit issued for development in the Special Flood Hazard Area will require that all other necessary permits from State or Federal Agencies have been received before work may begin.

C) Proposals for development within the Special Flood Hazard Area must be submitted by the Zoning Administrator or appropriate municipal panel to the Vermont Agency of Natural Resources for comment in accordance with 24 V.S.A. §4424(D). A zoning application shall not be considered complete until such comments have been received or 30 days has elapsed since the application was submitted, whichever is sooner.

D) 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.

Section 9.4: Certificate of Occupancy

A) In accordance with Chapter 117 §4449, it shall be unlawful to use or occupy, or permit the use or occupancy of any land or structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure within Special Flood Hazard Area until a certificate of occupancy is issued by the Zoning Administrator, 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.

B) Within 14 days of the receipt of the application for a certificate of occupancy, the Zoning Administrator shall inspect the premises to ensure that all permits identified on the Project Review Sheet have been acquired and all that all work has been completed in conformance with the Zoning Permit and associated approvals. If the Zoning Administrator fails to grant or deny the certificate of occupancy within 14 days of the submission of the application, the certificate shall be deemed issued on the 15th day. If a Certificate of Occupancy cannot be issued, notice will be sent to the owner and copied to the lender.

Section 9.5: Flood Hazard Area Development Standards

A) All Development

1) All development in the Special Flood Hazard areas shall be reasonably safe from flooding;

2) Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood;

3) Constructed with materials resistant to flood damage;

4) Constructed by methods and practices that minimize flood damage; and

5) Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

B) Residential Development

1) New construction and existing buildings to be substantially improved that are located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation.

2) Manufactured homes to be placed and existing manufactured homes to be substantially improved that are:

   a) Located in a new manufactured home park or subdivision, outside of a manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in a manufactured home park or subdivision which has incurred substantial damage from a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to no less than one foot above the base flood elevation3 and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement during the occurrence of the base flood.

   b) Located in an existing manufactured home park, where elevating a replacement home to or above base flood elevation is not possible, the lowest floor shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 48 inches in height above grade4 and be securely anchored to an adequately anchored system to resist floatation, collapse, and lateral movement.

C) Non-Residential Development

1) New construction located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation.

2) Existing buildings to be substantially improved located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation or together with attendant utility and sanitary facilities be designed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. (Note: while buildings need only be floodproofed to the base flood elevation for floodplain management purposes, the building must be floodproofed to an elevation at least one foot above the base flood elevation to receive credit for base flood protection for flood insurance rating purposes.

3) A permit for a building proposed to be floodproofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

D) Subdivisions

1) New subdivision developments (including planned unit developments manufactured home parks) of more than 5 acres or 50 lots, whichever is less, shall:

   a) Include base flood elevation data;

   b) Minimize flood damage within the flood-prone area;

   c) Locate and construct public utilities and facilities, such as sewer, gas, electrical, and water systems, to minimize or eliminate flood damage; and

   d) Provide adequate drainage is provided to reduce exposure to flood hazards.

E) Enclosed Areas Below the Lowest Floor

1) Enclosed areas below the lowest floor which are subject to flooding shall be used solely for parking of vehicles, building access, or storage.

2) New construction and existing buildings to be substantially improved with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

3) Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

F) Recreational Vehicles. Recreational Vehicles placed on sites with special flood hazard areas shall either be:

1) On the site for fewer than 180 consecutive days;

2) Fully licensed and ready for highway use; or

3) Permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in section B.2(b).

G) Accessory Structures. A small accessory building that represents a minimal investment need not be elevated to the base flood elevation provided the structure meets the following requirements:

1) The structure must only be used for parking or storage;

2) The structure must have the required openings to allow floodwaters in and out;

3) The structure must be constructed using flood resistant materials below the Base Flood Elevation;

4) The structure must be adequately anchored to resist flotation, collapse, and lateral movement; and

5) All building utility equipment including electrical and heating must be elevated or floodproofed.

H) **Water Supply Systems.** New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

I) **Sanitary Sewage Systems**. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

J) **On-Site Waste Disposal Systems**. On-site wastewater disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

K) **Watercourse Carrying Capacity**. The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.

Section 9.6: Standards for Review of Nonconforming Structures

The Zoning Board of Adjustment may approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a regulated flood or other hazard area, subject to compliance with applicable federal and state laws and regulations, and provided that the following criteria are met:

A) The appropriate municipal panel finds that the repair, relocation, or enlargement of the nonconforming structure is required for the continued economically feasible operation of a nonresidential enterprise.

B) The appropriate municipal panel finds that the repair, relocation, or enlargement of the nonconforming structure will not increase flood levels in the regulatory floodway, increase the risk of other hazard in the area, or threaten the health, safety, and welfare of the public or other property owners.

C) The permit so granted states that the repaired, relocated, or enlarged nonconforming structure is located in a regulated flood or other hazard area, does not conform to the regulations pertaining to that area, and will be maintained at the risk of the owner.

Section 9.7: Variances to the Development Standards

Variances shall be granted by the Board of Adjustment only in accordance with 24 V.S.A. § 4469 and in accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations. A decision in favor of the appellant shall be granted if all the following facts are found, and the supporting findings are specified in the decision:

A) Variances are generally limited to a lot size less than one-half acre relating to historical structures (provided the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure), or a necessary development functionally dependent on stream access.

B) The variance, if authorized shall be issued by the AMP only upon:

1) Determination that failure to grant the variance would result in exceptional hardship to the applicant;

2) Determination that the variance will not result in increased flood heights, increased susceptibility to flooding or erosion, additional threats to public safety or infrastructure (including emergency services during flood events), or extraordinary public expense; and

3) The variance will not increase the potential of materials being swept onto other lands or into the stream and causing damage to others.

C) The variance if granted will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan.

D) Any variance issued 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.

Section 9.8: Recording Requirements

The Zoning Administrator shall maintain a record of development within the Flood Hazard Area Overlay District including:

A) All permits issued for development in areas of special flood hazard;

B) The elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings;

C) The elevation, in relation to mean sea level, to which buildings have been floodproofed;

D) All flood proofing certifications required under this regulation; and

E) All variance actions, including justification for their issuance.

Section 9.9: Violation of Flood Hazard Area Regulations

A) Where a violation of the Flood Hazard Overlay District standards and regulations has not been cured after a warning notice has been sent in accordance with (D) above, the Zoning Administrator shall submit a declaration to the Administrator of the NFIP requesting a denial of flood insurance. Section 1316 of the National Flood insurance Act of 1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations. The declaration shall consist of:

1) The name of the property owner and address or legal description of the property sufficient to confirm its identity or location;

2) A clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;

3) A clear statement that the public body making the declaration has authority to do so and a citation to that authority;

4) Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and

5) A clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

Section 9.10: Flood Hazard Definitions

Definitions in this section apply only to the Flood Hazard Regulations in this article. Additional definitions are found in Article 11.

AREA OF SPECIAL FLOOD HAZARD: See special flood hazard area.

BASE FLOOD: 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): The height of the base flood, usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or average depth of the base flood, usually in feet, above the ground surface.

BASEMENT: Any area of the building having its floor elevation below ground level on all sides. A “walk-out” basement whose floor is at ground level on at least one side of the house, usually with a door on that side is not considered a "basement" for the purpose of the flood hazard regulations.

COMMON PLAN OF DEVELOPMENT: 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 that survive a flood and now are the only points for food and gas.

DEVELOPMENT: Any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the initial floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FILL: Any placed material that changes the natural grade, increases the elevation, or diminishes the flood storage capacity at the site.

FLOOD: (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): 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: 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: Any land area susceptible to being inundated by water from any source (see definition of “flood”).

FLOOD PROOFING: 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: 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 where the Special Flood Hazard Areas have established base flood elevations, the extent of FEMA floodways may be shown on a separate series of panels

FUNCTIONALLY DEPENDENT USE: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

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

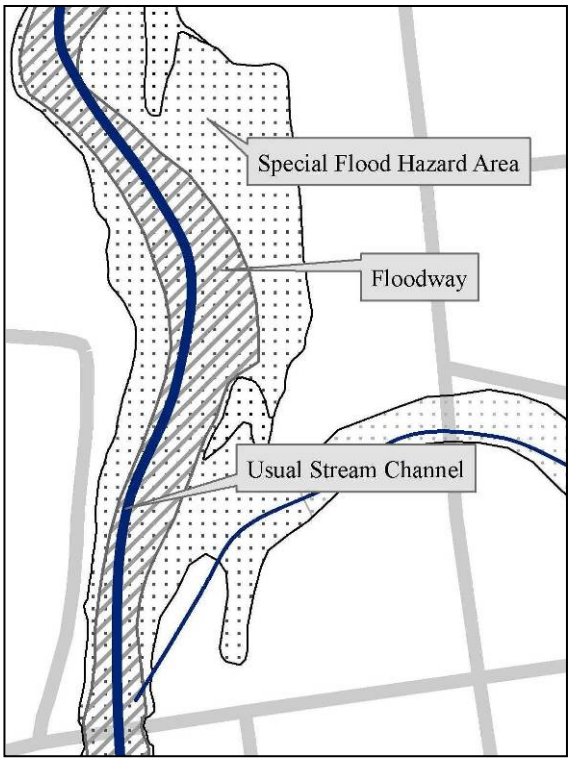
MANUFACTURED HOME PARK OR SUBDIVISION: For development in the Flood Hazard Area Overlay District, a manufactured home park or subdivision shall mean a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale and a new manufactured home park or subdivision shall mean a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

MINOR IMPROVEMENT: Any repairs, reconstruction, or improvement of a structure (other than customary maintenance), the cost of which is less than fifty (50) percent of the market value of the existing structure.

NEW CONSTRUCTION: Structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. For the purposes of determining insurance rates, "new construction" means structures, including manufactured homes, for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

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.

Map 9.1 Floodplain Zones



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

SPECIAL FLOOD HAZARD AREA: 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 Town Office or online from the FEMA Map Service Center: msc.fema.gov. Base flood elevations have not been determined in Zone A where the flood risk has been mapped by approximate methods. Base flood elevations are shown at selected intervals on maps of Special Flood Hazard Areas that are determined by detailed methods. Please note, where floodways have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps.

START OF CONSTRUCTION: Includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or

the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

STRUCTURE: A walled and roofed building, as well as a manufactured home, and any related built systems, including a gas or liquid storage tanks.

SUBSTANTIAL DAMAGE: 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: Any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of these regulations, 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: The failure of a structure or other development to be fully compliant with these regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

ARTICLE 10. ADMINISTRATION AND ENFORCEMENT

Section 10.1: Municipal Boards and Officials

A) Planning Commission

1) **Power and Duties.** The Planning Commission created by the Select Board pursuant to chapter 117 of the Act shall have all of the powers and duties of a municipal planning commission as set out in that chapter, as well as such other powers and duties as are specified by this bylaw and shall exercise such other functions as the Select board may assign to it. In particular, but without limiting the generality of the foregoing, the Planning Commission shall have the following duties in association with this bylaw:

   a) Prepare proposed amendments to this bylaw, and consider proposed amendments submitted by others, include amendments submitted by petition;

   b) Prepare and approve written reports on any proposed amendment to this bylaw as required by the Act; and

   c) Hold one or more warned public hearings on proposed amendments to this bylaw, prior to submission of a proposed amendment and written report to the Select Board.

2) **Membership**

   a) The Planning Commission shall have seven voting members, or such other number, not less than three or more than nine, as the Select Board shall from time to time determine.

   b) At least a majority of the members of the Planning Commission shall be residents of Enosburgh, including the Village of Enosburg Falls.

   c) The members of the Select Board, or not more than two elected or appointed officials of Enosburgh who are chosen by the Select Board, shall be nonvoting ex officio members of the Planning Commission.

   d) The members of the Planning Commission may be compensated and reimbursed by Enosburgh for necessary and reasonable expenses.

   e) The members of the Planning Commission shall be appointed, each for a term of four years, and any vacancy shall be filled for the unexpired term, by the Select Board. Any member may be removed at any time by unanimous vote of the Select Board.

3) **Voting.** The Planning Commission shall keep a record of its resolutions and transactions, which record shall be maintained as a public record of Enosburgh.

1) ZONING ADMINISTRATOR Appointment.

   a) The Select Board shall appoint an Zoning Administrator from nominations submitted by the Planning Commission for a term of 3 years. The Select Board may remove an Zoning Administrator for cause at any time after consultation with the Planning Commission.

b) An acting Zoning Administrator may be appointed by the Select Board, from nominations submitted by the 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 Select Board shall establish clear policies regarding the authority of the Zoning Administrator relative to the authority of the acting Zoning Administrator.

2) **Power and Duties.**

a) The Zoning AdministratorZoning Administrator shall literally administer and strictly enforce the provisions of this bylaw, and in doing so shall inspect development, maintain records, and perform other related tasks as is necessary and appropriate.

b) The Zoning Administrator shall coordinate the Town's development review programs. If other municipal permits or approvals are required, the Zoning Administrator shall provide the applicant with necessary forms. The Zoning Administrator may also inform any person applying for municipal permits or authorizations that they should contact the Vermont Agency of Natural Resource's Regional Permit Specialist to assure timely action on any related state permits. The applicant retains the obligation to identify, apply for, and obtain relevant state permits.

c) The Zoning Administrator may enter at reasonable times upon any public or private property for purposes of inspection and investigation, as he or she deems necessary, in order to determine compliance with this bylaw.

B) Development Review Board (DRB)

1) **Power and Duties.** The DRB created by the Select Board pursuant to Chapter 117 of the Act shall have all of the powers and duties of an appropriate municipal panel as set out in that chapter, as well as such other powers and duties as are specified by this bylaw and shall exercise such other functions as the Select board may assign to it. In particular, but without limiting the generality of the foregoing, the DRB shall have all the powers and duties as set forth in the Act to administer the provisions of this bylaw, including but not limited to the power to hear and act upon:

a) Applications for rights-of-way or easements for development lacking frontage;

b) Appeals from any decision, act or failure to act by the Zoning Administrator;

c) Variance requests;

d) Requests for waivers of dimensional standards (if applicable);

e) Applications for site plan approval;

f) Applications for conditional use approval;

g) Applications for subdivisions;

h) Applications for planned unit development;

i) Applications for wireless telecommunications facilities as authorized by the Act; and

j) Other reviews of development as may be provided for in this bylaw.

2) **Membership**

a) The DRB shall have five voting members, or such other number, not less than five or more than nine, as the Select Board shall from time to time determine.

b) At least a majority of the members of the DRB shall be residents of Enosburgh, including the Village of Enosburg Falls.

c) The members of the Planning Commission may be members of, and, if not members of, shall be alternates to, the DRB. Alternates shall serve on the DRB in situations where one or more members of the Board are disqualified or are otherwise unable to serve.

d) The members of the DRB may be compensated for the performance of their duties, and may be reimbursed by Enosburgh for necessary and reasonable expenses.

e) The members of the DRB shall be appointed, each for a term of four years or such other term as the Select Board shall from time to time determine, and any vacancy shall be filled for the unexpired term, by the Select Board. The Select Board upon written charges and after public hearing may remove any member for cause at any time.

3) **Rules of Conduct**

a) The DRB shall elect its own officers, and 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 and Vermont's Open Meeting Law. For the conduct of any hearing and the taking of any action, a 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 Board.

b) The DRB shall keep minutes of its proceedings, showing 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, which minutes and records shall be immediately filed in the office of the Town Clerk as a public record of Enosburgh.

Section 10.2: Hearings and Decisions

A) DRB Hearings and Public Notice. In accordance with the ACT, a warned public hearing shall be required for conditional use review and appeals and variances and final plat review for subdivisions. 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 3 or more public places within the Town, including the posting of a notice within view from the public-right-of-way nearest to the property for which the application is made.

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.

4) Public notice of all other types of development review hearings, including site review, shall be given not less than 7 days prior to the date of the public hearing, and shall at minimum include the following:

   a) Posting of the date, place and purpose of the hearing in 3 or more public places within the Town.

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

   c) The applicant shall be required to bear the cost of the public warning and the cost and responsibility of notifying adjoining landowners as required above, as determined from the municipal grand list. The applicant shall 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.

   d) No defect in the form or substance of any required public notice under this section shall invalidate the action of the DRB 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 the DRB or the Environmental Court rules an action to be invalid, the action shall be remanded to the DRB to provide new posting and notice, hold a new hearing, and take a new action.

B) Decisions of the DRB. Any action or decision of the DRB shall be taken by the concurrence of a majority of the members of the Board. In accordance with the Act, the DRB 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:

1) All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on 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 Section 10.3.

2) 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.

3) In rendering a decision in favor of the applicant, the DRB may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of the Act, this bylaw, and the Town 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 Select Board, 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.

4) Decisions of the DRB shall be recorded in the Town land records and a copy maintained on file in the Town Clerk's Office.

Section 10.3: Certificate of Occupancy

A) In accordance with the Act, a certificate of occupancy issued by the Zoning Administrator shall be required prior to the use or occupancy of any land or structure, or part thereof, for which a zoning permit has been issued.

1) An application for a certificate of occupancy shall be made to the Zoning Administrator prior to the use or occupancy of the land or structure.

2) A certificate of occupancy shall not be issued until all necessary approvals and permits required by this bylaw have been obtained for the project, and the Zoning Administrator determines that the project has been fully completed in conformance with all such approvals and permits.

3) Within 30 days of receipt of the application for a certificate of occupancy, the Zoning Administrator may inspect the premises to ensure that all work has been completed in conformance with the zoning permit and associated approvals, including all applicable permit conditions. If the Zoning Administrator fails to either grant or deny the certificate of occupancy within 30days of the submission of an application, the certificate shall be deemed issued on the 31st day.

4) Certificate of compliance shall be posted (see posting requirements).

Section 10.4: Appeals

A) Zoning Administrator Actions. Any interested person as defined under the Act may appeal a decision or act of the Zoning Administrator within 15 days of the date of the decision or act by filing

a notice of appeal with the Secretary of the DRB, or the Town Clerk if no Secretary has been elected, and by filing a copy of the notice with the Zoning Administrator.

1) The DRB shall hold a public hearing on a notice of appeal within 60 days of its filing. The DRB shall give public notice of the hearing under Section 10.2 A, and mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.

2) The DRB may reject an appeal or request for reconsideration without hearing, and render a decision which shall include findings of fact within 10 days of the filing of a notice of appeal, if the Board determines that the issues raised by the appellant have been decided in an earlier appeal or are based on substantially or materially the same facts by or on behalf of the appellant.

3) All appeal hearings shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in state statutes [3 V.S.A) §810]. Any interested person or body may appear and be heard in person or be represented by an agent or attorney at the hearing. The hearing may be adjourned by the DRB from time to time, provided that the date and place adjourned hearing shall be announced at the hearing.

4) A decision on appeal shall be rendered within 45 days after the final adjournment of the hearing. The decision shall be sent by certified mail to the appellant within the 45 day period. Copies of the decision shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Zoning Administrator and the Town Clerk as part of the public records of the Town.

B) Notice of Appeal. A notice of appeal filed under this section shall be in writing and include the following information:

1) the name and address of the appellant;

2) a brief description of the property with respect to which the appeal is taken;

3) a reference to applicable provisions of this bylaw;

4) the relief requested by the appellant, including any request for a variance from one or more provisions of these regulations; and

5) the alleged grounds why such relief is believed proper under the circumstances.

C) Appeals to Environmental Court. In accordance with the Act, an interested person who has participated in a regulatory proceeding of the DRB may appeal a decision rendered by the Board under Section 10.1 E, within 30 days of such decision, to the Vermont Environmental Court. Appeals to the Environmental Court shall also meet the following requirements:

1) "Participation" in a DRB 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 shall be filed by certified mailing, with fees, to the Environmental Court and by mailing a copy to the Town Clerk, or the Zoning Administrator if so designated, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within 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.

Section 10.5: Violations and Enforcement

A) Applicability. The commencement or continuation of any land development that is not in conformance with the provisions of this bylaw shall constitute a violation. All violations shall be pursued in accordance with Sections 4451, 4452 of the Act. Each day that a violation continues shall constitute a separate offense.

B) Notice of Violation

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

2) If the violation is a failure to obtain a permit, the applicant may apply for an After The Fact Permit provided that the project is in full compliance as stated in these by-laws. The fee for After The Fact Permit will be double the regular fee.

3) The Zoning Administrator shall institute, in the name of the Town, any appropriate action, injunction, or other proceeding to enforce the provisions of this bylaw. All fines imposed and collected shall be paid over to the Town.

C) Limitations on Enforcement

1) Any enforcement action 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 taken within 15 years from the date the alleged violation first occurred, and not thereafter. The burden of proving the date the alleged violation first occurred shall be on the person 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 Town.

2) Nothing in this section shall prevent any action, injunction, or other enforcement proceeding by the Town under any other authority it may have, including, but not limited to, a municipality's authority under V.S.A. Title 18 relating to the abatement and removal of a public health risk or hazard.

3) Whenever a violation of these regulations occurs, or is alleged to have occurred, any person may file a written complaint with the Zoning Administrator. The complaint shall state fully the causes and basis for the alleged violation. The Zoning Administrator shall properly record such a complaint, investigate, and take action as appropriate in accordance with this bylaw.

D) Recording Requirements

1) Within 30 days after the issuance of a municipal land use permit or notice of violation, the Zoning Administrator shall deliver either the original, a legible copy, or a notice of the permit or violation to the Town Clerk for recording in the Enosburgh land records as provided in 24 V.S.A) 1154.C, and file a copy in a location where all municipal land use permits shall be kept. The applicant may be charged the cost of the recording fees.

2) The Zoning Administrator shall maintain a record of development within the Flood Hazard Area Overlay District including:

   a) All permits issued for development in areas of special flood hazard;

   b) The elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings;

   c) The elevation, in relation to mean sea level, to which buildings have been floodproofed; and

   d) All flood proofing certifications required under this bylaw; and all variance actions, including justification for their issuance.

Section 10.6: Fees

The Select Board shall establish a schedule of fees and amend the schedule as needed to cover some or all the cost of the administration and enforcement of this bylaw. The schedule of fees may include provisions that require applicants to pay for reasonable costs of an independent technical review of their applications. The schedule of fees shall be posted in the offices of the Town Clerk and Zoning Administrator, and may be altered or amended only by resolution of the Select Board.

ARTICLE 11. DEFINITIONS

Section 11.1: Interpretation

The following definitions shall apply throughout these subdivision regulations unless the context otherwise requires. Words in the singular include the plural and those in the plural include the singular. The word "person" includes a corporation, unincorporated association and partnership, as well as an individual. The word "building" includes structure and shall be construes as if followed by the phrase "or part thereof." The word "road" includes avenue, boulevard, court, expressway, highway and street. The words "may" and "should" are permissive; the words "shall" and "will" are mandatory. Unless otherwise defined herein, definitions of words used in the Act shall apply.

The following definitions shall apply throughout this bylaw unless the context or the Act otherwise requires. Words in the singular include the plural, and words in the present tense include the future tense. The words "may" and "should" are permissive, and the words "shall" and "will" are mandatory.

Section 11.2: Definitions

ACCEPTABLE MANAGEMENT PRACTICES: That combination of conservation measures, structures, activities, prohibitions, procedures, or management practices designed to prevent, reduce or avoid adverse impacts of development on a site or adjoining site's land, soil, water, or waterways, and water bodies.

ACCEPTANCE: Formal action by the Enosburgh Selectboard, in keeping with statutory requirements, to accept a dedicated road, easement, or land.

ACCESSORY USE or STRUCTURE: A use or a structure other than a dwelling that is separate from, but a secondary or subordinate activity or structure related to, a principal use or a principal structure, and that is carried out or used in association with the principal use and is located on the same lot as the principal use or structure.

ACCESSORY DWELLING UNIT: See Section 5.1.

ACT: Title 24, Chapter 117, Vermont Statutes Annotated: The Vermont Municipal and Regional Planning and Development Act as presently enacted or as from time to time amended.

AFFORDABLE HOUSING: 1. Housing that is owned by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes, insurance, and condominium association fees is not more than 30 percent of the household's gross annual income, or 2. housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the United States Department of Housing and Urban Development, and the total annual cost

of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income. Title 24 V.S.A. Chapter 117 Section 4303.

AGRICULTURE: See FARMING.

BED AND BREAKFAST LODGING: Providing temporary and short term (less than 30 days) accommodation, without a restaurant, to the public for compensation in a dwelling containing 5 or fewer individual rental units consisting of at least a bedroom.

BUILDING: A structure, or part of a structure designed, built or used as a shelter for persons, animals or property.

BUILDING ENVELOPE: A three dimensional space within which the principal and accessory structures on a lot must be located. A building envelope is delineated laterally on the ground by setbacks or other limits, and vertically by height limits.

BUILDING UNIT: A single unit providing complete, independent facilities for one use.

BYLAWS: The Town of Enosburgh's Unified Zoning Bylaws and Subdivision Regulations and any amendment thereto, as defined and adopted under the provisions of the Act.

CAMP: A building designed, built, or used as temporary, seasonal, or occasional shelter for persons in connection with a recreation activity.

CAMPGROUND: The commercial use of an area of land for the provision of temporary and short term tenting or camping vehicle accommodation.

CAMPING VEHICLE: A camper, trailer, travel trailer, tent trailer, motor home, camper trailer, truck camper, or any other structure, device or conveyance: mounted or designed to be mounted on wheels; and used or designed to be used as temporary, seasonal, or occasional shelter for persons in connection with a recreation activity.

DAYCARE: Any establishment, whether providing services in-home or in a separate non-residential facility, providing childcare service to more than 6 full-time children and 4 part-time children on a regular or continual basis for a fee.

COMMERCIAL USE: The use of an area of land and the structures on it for activities and facilities for wholesale or retail buying, selling, provision, trading, or exchange of commodities, goods, or services, other than by the Town, state, or federal government. Does not include Professional Services.

CONSTRUCTION DRAWING/SPECIFICATIONS: Those drawings showing the location, profile, grades, size and type of drains, sewers, water mains, underground utilities, pavements (above and below grade), cross section of streets, miscellaneous structures, etc.

CURB CUT: The opening along the edge of a public or private roadway at which point vehicles may enter or leave the roadway.

DEDICATION: The action by a subdivider to formally offer to the Town of Enosburgh title to roads, easements or land to be used for public purposes.

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

DISTRICT: A part, zone, or geographic area within the municipality within which certain zoning or development regulations apply.

DRIVEWAY: An open way used to provide access for vehicles, persons, and animals to a road from one lot, or from two residential lots. Farm roads or logging roads are not driveways.

DWELLING: A building designed, built, or used exclusively to contain permanent dwelling units. A camping vehicle, camp, trailer, automobile chassis, tent, school bus, portable, or temporary structure is not a dwelling.

DWELLING, MULTIPLE FAMILY: A single dwelling containing three or more dwelling units.

DWELLING, SINGLE FAMILY: (1) A single dwelling containing one dwelling unit: (2) A state licensed or registered residential care home or group home, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A) § 4501 located one thousand (1,000) feet or more from another such home. (3) A state licensed or registered family child care home or facility serving no more than 6 full-time children and 4 part-time children as defined in 33 V.S.A) § 4902(3)(A).

DWELLING, TWO FAMILY: A single dwelling containing two dwelling units.

DWELLING UNIT: A single unit providing complete, independent dwelling facilities for one family, including permanent facilities for living, sleeping, eating, cooking, and sanitation.

EASEMENT: A grant by a property owner to the use of land by the legal entity for specific purposes as the construction of utilities, drainage ways, driveways and roads.

EXCAVATION AND LAND FILLING: Any commercial or industrial extraction of earth resources. Any breaking of ground that substantially affects adjacent properties, such as extraction or movement of earth or rock, or any alteration of existing drainage patterns. Common agricultural tillage, ground care, gardening, and excavations in cemeteries shall be exempt from this bylaw.

FAMILY: One or more persons occupying a single dwelling unit as a single household unit, all members of which are of direct lineal descent or adopted or legally cared for children, or, containing no more than six persons including live-in employees of the household.

FARMING: 10 VSA Section 6001 (22)) "Farming" means: (A) the cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; or (B) the raising, feeding, or management of livestock, poultry, fish, or bees; or (C) the operation of greenhouses; or (D) the production of maple syrup; or (E) the on-site storage, preparation and sale of agricultural products principally produced on the farm; or (F) the on-site production of fuel or power from agricultural products or wastes produced on the farm; or (G) the raising, feeding, or management of four or more equines owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding, training, and the management of equines.

FARM DWELLING COMPLEX: An area of land for residential use on an operating farm containing a single or two family dwelling occupied by the farm operator and/or farm labor.

FARM LIVING QUARTERS: Any dwelling units, including mobiles homes, for use by full-time, temporary, or permanent workers engaged in agricultural pursuits.

FARM STRUCTURE: Used by a person for agricultural production that meets one or more of the following: (a)is used in connection with the sale of $1000 or more of agricultural products in a normal year; or (b)is used in connection with the raising, feeding, and management of at least the following number of adult animals: four equines; five cattle or American bison; fifteen swine; fifteen goats; fifteen sheep; fifteen fallow deer; fifteen red deer; fifty turkeys; fifty geese; one-hundred laying Hens; two-hundred and fifty broilers, pheasant, Chukar partridge, or Coturnix quail; three camelids; four ratites (ostriches, rheas, and emus); thirty rabbits; one hundred ducks; or one-thousand pounds of cultured trout; or (c)is used by a farmer filing with the Internal Revenue Service a 1040 (F) income tax statement in at least one of the past two years; or (d) is on a farm with a business and farm management plan approved by the Commissioner.

FINAL PLAN: The final drawings on which the subdivider's plan for subdivision is presented to the DRB for approval, and which, if approved, shall be filed with the Town Clerk.

FLOOD PLAIN: The land lying between a lake, river, stream or watercourse and the high water mark of the 100-year storm event as indicated on the National Flood Insurance Program (FIRM) floodway maps for the Town of Enosburgh.

FOREST FRAGMENTATION: The division or conversion of large tracts of contiguous forest or formerly contiguous forest into smaller pieces leaving remnant patches of forest that vary in size and isolation separated by non-forested lands or other vegetation and land use types. The reduction in size of forest patches as a result of forest fragmentation can reduce the productive capacity of forestland for forestry and disrupt wildlife corridors and render the forest and other habitats unsuitable for certain species of plants and animals.

FORESTRY: The use of an area of land for the raising and the harvesting of trees for commercial purposes, including accessory uses, temporary structures, and facilities such as logging roads, and portable sawmills.

FRONTAGE: Contiguous length of the lot boundary measured along a public or private road or mean high water mark of a public water.

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

HIGH WATER MARK: The line on the bed and banks of lakes and streams where the presence and action of waters are so common and usual, and so long continued in ordinary years, as to mark upon the soil a character distinct from that of the abutting upland.

HOME OCCUPATION: The use of a minor portion of a dwelling unit for an occupation that is customary in residential areas and that does not have an undue adverse effect on the character of the residential area in which the dwelling unit is located and that is carried out in conformance with the provisions of this bylaw. See Section 5.7.

INTERESTED PERSON: Title 24 V.S.A. Section 4465, any of the following:

1) A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by this bylaw, who alleges that this 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 Enosburgh or any municipality that adjoins it;
3) A person owning or occupying property in the immediate neighborhood of a property that is the subject of a decision or act taken under this bylaw, 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 be in accord with the policies, purposes or terms of the Enosburgh plan or this bylaw;
4) Any ten persons who may be any combination of voters or real property owners within a municipality listed in (2) of this definition who, by signed petition to the DRB, allege that any relief requested by a person under this bylaw, if granted, will not be in accord with the policies, purposes or terms of the plan or bylaw of Enosburgh; or
5) Any department or administrative subdivision of the state of Vermont owning property or any interest therein within a municipality listed in subdivision (3) of this subsection, and the agency of commerce and community development of the state of Vermont.

JUNK: Old or scrap copper, brass, iron, steel and other old or scrap nonferrous material, including but not limited to rope, rags, batteries, glass, rubber debris, waste, trash or any discarded, dismantled, wrecked, scrapped or ruined motor vehicles or parts thereof.

JUNK MOTOR VEHICLE: A discarded, dismantled, wrecked, scrapped or ruined motor vehicle or parts thereof, or one other than an on-premise utility vehicle that is allowed to remain unregistered for a period of 90 days from the date of discovery.

JUNKYARD: See Salvage Yard.

LANDSCAPED: An expanse of natural scenery; lawns, trees plants and other natural materials; a kept are of lawn or garden.

LAND USE/USE OF LAND: The action or state of making land active that consists in its employment, occupation, or improvement, including but not limited to, subdivision, residential, commercial, industrial, recreational, or agricultural/forestry activities, private and public roads, road and stream construction, and drainage construction, or other development.

LIGHT INDUSTRIAL USE: The use of an area of land and the structures on it for activities and facilities for the manufacturing, fabrication, processing, assembly, packaging, treatment, warehousing, and/or storage, of predominantly previously prepared materials and products.

LOCATION MAP: A map that shows the relation of the proposed subdivision to adjacent properties and the surrounding area.

LODGING ESTABLISHMENT: A building or buildings containing ten or fewer rooms or units which are rented for money or other compensation as sleeping units for transients, each sleeping unit consisting of at least a bedroom and a bathroom (shared bathrooms are also permitted). Included are hotels, motels, tourist courts, cabins, motor lodges, and the like.

LOT: A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise allowed by law, to be separately owned, used, developed or built upon.

LOT SIZE: The total contiguous area of land within the boundaries of a lot.

LOT, CORNER: A lot located at the intersection of two or more public or private roads.

LOT COVERAGE: A measure of intensity of land use that represents the portion of a site that is impervious (i.e. does not absorb water) including, but not limited to, areas covered by buildings or other permanent structures, parking, loading or storage areas, driveways, roads, sidewalks, and any area of concrete asphalt.

MAJOR SUBDIVISION: as defined in Section 7.2.

MINOR SUBDIVISION: as defined in Section 7.2

MOBILE HOME: A prefabricated dwelling which:

1) is designed for long term and continuous residential occupancy;
2) is designed to be moved on wheels, as a whole or in sections;
3) on arrival at the site, is complete and ready for occupancy, except for incidental unpacking, assembly, connections with utilities, and placing on support or a permanent foundation, or installation as a unit in a previously prepared structure; and
4) meets all other criteria and standards established by rule of the state of Vermont for distinguishing mobile homes from other types of dwellings.

MOBILE HOME PARK: An area of land under single or common ownership or control that contains, or is designed, laid out or adapted to accommodate, more than two mobile homes. Does not include mobile homes for farm labor housing.

MOTOR VEHICLE: Any vehicle propelled or drawn by power other than muscular power.

NONCONFORMING LOT OR PARCEL: A lot or parcel that does not conform to the dimensional requirements set out in this bylaw, but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of this bylaw, including a lot or parcel improperly authorized as a result of error by the Zoning Administrator.

NONCONFORMING STRUCTURE: A structure or part thereof that does not conform to this bylaw, but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of this bylaw, including a structure improperly authorized as a result of error by the Zoning Administrator.

NONCONFORMING USE: A use of land or of a structure, that does not conform to this bylaw, but did conform to all applicable laws, ordinances, and regulations prior to the enactment of this bylaw, including a use improperly authorized as a result of error by the Zoning Administrator.

NONCONFORMITY: A nonconforming use, structure, lot, or parcel.

NURSING HOME/COMMUNITY CARE HOME: A facility licensed by the state which provides primarily non-medical residential care services on a 24-hour a day basis to 9 or more individuals who are over 55 or disabled and in need of personal assistance essential for sustaining the activities of daily living.

OPEN SPACE: Land unoccupied by structures, buildings, roads, rights-of-way, or motor vehicle parking areas.

PARCEL: See Lot.

PARKING SPACE: An off-street area of not less than 200 square feet exclusive of loading, access and maneuvering areas, landscaped areas, etc) to be used exclusively as a temporary storage space for one motor vehicle at a time.

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

PLANNED UNIT DEVELOPMENT (PUD): One or more lots, tracts, or parcels of land to be developed as a single entity, which may include a combination of density or intensity transfers or increases, as well as the mixing of land uses. The PUD, as authorized by the DRB, may deviate from District by-law requirements with respect to lot size, bulk, or type of dwelling or building, use, density, intensity, lot coverage, parking, required open space, or other standards. See Article 6.

PLANNING COMMISSION: The Town of Enosburgh Planning Commission created pursuant to Section 4321 of the Act.

PLAT: A map or representation on paper of a piece of land subdivided into lots and roads, drawn to scale and meeting the requirements of these regulations and 27 V.S.A. Chapter 17.

PRINCIPAL USE or STRUCTURE: The primary use of a lot, or the primary building or other structure on the lot.

PROFESSIONAL SERVICES: Establishments engaged in providing services involving the care of a person, or providing services based on a recognized profession. Including but not limited to: barbershop, beauty parlor, laundry, photographic studio, doctor, dentist, lawyer, engineer, certified public accountant, consulting firm, real estate broker or appraiser, chiropractor, planner, architect, daycare center and similar professions.

PUBLIC SERVICE OR UTILITY: Those facilities provided for and/or available to the residents of a Town, including sewage disposal, fire protection, town equipment garages, police protection, public and

private hospitals, educational facilities, governmental administration buildings, sewage and water facilities, fire facilities, postal services, public parking garages and like facilities.

RECREATION PATH: Any paved or unpaved path providing for travel by pedestrians, bicycles, or other non-motorized vehicles.

RECREATIONAL USE – INDOOR: An enclosed structure designed and equipped for the conduct of sports and leisure time activities as a commercial establishment. Includes indoor bowling alleys, theaters, table tennis and pool halls, skating rinks, gymnasiums, swimming pools, hobby workshops, and similar places of indoor commercial recreation.

RECREATIONAL USE – INDOOR AND OUTDOOR: The commercial use of an area of land for recreation activities carried out within a building, or recreation activities carried out using a combination of indoor and outdoor facilities, including structures and roads.

RECREATIONAL USE - OUTDOOR: The commercial use of an area of land for no or low impact outdoor recreation activities without facilities, structures, or roads.

RENEWABLE ENERGY RESOURCES: Energy available for collection or conversion from direct sunlight, wind, running water, organically derived fuels, including wood and agricultural sources, waste heat, and geothermal sources.

RESIDENTIAL USE: The use of land for residential purposes and uses accessory to those purposes, and dwellings and structures accessory to those dwellings.

RESTAURANT: Providing meals to the public (other than those also renting temporary accommodation) for compensation in any structure including a dwelling.

RIDGELINE: The visual horizon formed where the vegetation on top of a hill or mountain meets the sky, as viewed from a public street, and where there is no land form visible behind the hill or mountain.

ROAD, PRIVATE: A road, not publicly owned and maintained, serving three or more lots, other than a farm road or a logging road.

ROAD, PUBLIC: A road over which the public has a right to pass, and which the Town or the State or the federal government has the obligation to maintain.

ROOMING AND BOARDING LODGING: Providing accommodation in a dwelling, with or without meals, for five or fewer persons for a fixed period of time for compensation.

SALVAGE YARD: Any place of outdoor storage or deposit for storing, keeping, processing, buying, or selling junk or as a scrap metal processing facility. Salvage yard also means any outdoor area used for operation of an automobile graveyard. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.

SELECT BOARD: The legislative body of the Town of Enosburgh.

SETBACK: The minimum required distance between a structure and a lot boundary, measured horizontally from the feature of the structure that is closest to the boundary.

SETBACK, FRONT: The minimum required distance between a structure and the centerline of the traveled portion of a class 1, 2, or 3 public road or private road, measured horizontally from the feature of the structure that is closest to the road.

SIGN: Any display or representation, used or placed as an announcement, direction or advertisement. The word "placed", for the purpose of this definition shall include erected, constructed, or otherwise fastened, affixed, or made visible in any manner whatsoever.

SIGNIFICANT WILDLIFE HABITAT: Land characterized by natural features that are necessary for the survival or reproduction of the native wildlife of Enosburgh and the surrounding region. This includes 1. deer winter habitat, i.e. deeryards, 2. habitat for rare, threatened and endangered species (state or federally listed), 3. concentrated black bear feeding habitat (bear scarred beech and oak stands), 4. wetlands and vernal pools, 5. wildlife travel corridors, 6. large areas of contiguous forest, and 7. habitat identified by the VT Department of Fish and Wildlife as either significant wildlife habitat or wildlife habitat in accordance with 10 V.S.S Section 6086 (a)(8)(A).

SKETCH PLAN: A preliminary sketch of the proposed subdivision showing information specified in Table 7.1 of these regulations, to enable the subdivider to save time and expense in discussing the proposed subdivision with the DRB.

STRUCTURE: An assembly of materials for occupancy or use, including, but not limited to, a building, mobile home or trailer, billboard, sign, wall or fence six feet or more in height, except a wall or a fence on an operating farm.

STRUCTURE HEIGHT: The vertical distance measured from the finished grade at the lowest point at ground level of a structure to the highest point of that structure.

SUBDIVIDER: Any individual, firm, corporation, partnership, limited liability company, limited liability partnership, association, or other type of group or entity which shall lay out for the purpose of sale or development or otherwise, any subdivision or part thereof as defined in these regulations, for himself/herself or others. The term shall include any applicant for subdivision approval.

SUBDIVISION: Any land, vacant or improved, which is divided or proposed to be divided into 2 or more lots, parcels, tracts, sites, plots, units or interests for the purpose of conveyance, transfer, offer for sale, lease or development.

SURFACE WATERS: Water on the earth's surface exposed to the earth's atmosphere including but not limited to rivers, lakes, streams, ponds, creeks, and brooks.

TEMPORARY USES AND STRUCTURES:

TOURIST LODGING: Providing temporary and short term (less than 30 days) accommodation, without a restaurant, to the public for compensation in a building, other than a dwelling, containing individual

rental units consisting of, at least, a bedroom and a bathroom. Bed and Breakfast lodging with more than five individual rental units is tourist lodging. Rooming and Boarding lodging for more than five persons is tourist lodging.

TOWN PLAN: The Town Plan for Enosburgh and any amendment thereto, as defined and adopted under the provisions of the Act.

TRACT: An area of land owned or controlled, or intended to be owned or controlled, by one person. Contiguous tracts described separately in plats, plans, or deeds filed in the Town records constitute one tract if owned or controlled by the same person.

USE: The specific purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is used, or intended to be used or occupied.

WILDLIFE TRAVEL CORRIDOR: A route that permits the direct travel or spread of animals from one area or region to another, either by the gradual spread of a species' population along the route or by the movement of individual members of the species. Generally, such areas are characterized by undeveloped forested corridors, including forest cover reaching road rights-of-way, which serve to link large tracts of un-fragmented forest habitat.

WIRELESS TELECOMMUNICATIONS FACILITY: A tower or other support structure, including antennae, that extends 20 feet or more vertically, and related equipment, and base structures, for use primarily for communication or broadcast purposes to transmit or receive communication or broadcast signals.

YARD: The minimum required distance between a structure and the closest lot boundary, unoccupied and unobstructed by any portion of a structure from the ground upward.