Enosburg Falls Village

LAND USE AND DEVELOPMENT REGULATIONS

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Amended by the Village Trustees on: June 23, 2009
Amended by the Village Trustees on: July 16, 2014
Amended by the Village Trustees on: June 23, 2015
Amended by the Village Trustees on: November 28, 2017

Effective on: December 19, 2017

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Acknowledgements

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ARTICLE 1. AUTHORITY AND PURPOSE

SECTION 1.1. STATUTORY AUTHORIZATION AND ENACTMENT

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

SECTION 1.2. PURPOSE

The purpose of this bylaw is:

- To implement the Town and Village of Enosburgh, Vermont Comprehensive Municipal Plan (adopted February 2, 2015), including any future amendments;
- To further the purposes of the Act;
- To promote the health, safety, and general welfare of the inhabitants of Enosburg Falls;
- To provide for orderly community growth;
- To maintain and enhance the natural beauty and environment of the Village;
- To encourage subdivision design that protects steep slopes, surface waters, wildlife habitat, wetlands, native vegetation, existing landforms, and the Village's historical and archeological resources;
- To provide the most beneficial relationship between uses of land and buildings and the safe and convenient movement of pedestrian and vehicular traffic;
- To provide for the preservation, protection, and/or conservation of natural resources such as wildlife habitat, wetlands, and natural vegetation, and to encourage the wise use and management of natural resources in order to preserve the integrity, stability, and beauty of the Village and the value of land;
- To provide for public facilities and services such as parks, open spaces, recreation areas, schools, police and fire protection, emergency medical care, off-street parking, water supply, and sewage disposal;
- To ensure that existing public services and facilities are available, will be available, and will have sufficient capacity to serve any proposed land development or subdivision; and
- To require, as appropriate, the cost of improvements necessary for proposed land development or subdivision, of which will benefit its eventual residents, be paid by the proponent of such land development or subdivision.

SECTION 1.3. APPLICABILITY

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

The means the division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining, excavation, or landfill, and any change in the use of any building or other structure, or land, or extension of use of land.

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

SECTION 1.4. DEFINITIONS

Except as defined in Article 11 of these regulations, all words shall carry their customary meanings; any interpretation of words or terms in these regulations by the Zoning Administrator may be appealed to the Development Review Board for a declaratory ruling.

SECTION 1.5. SEVERABILITY

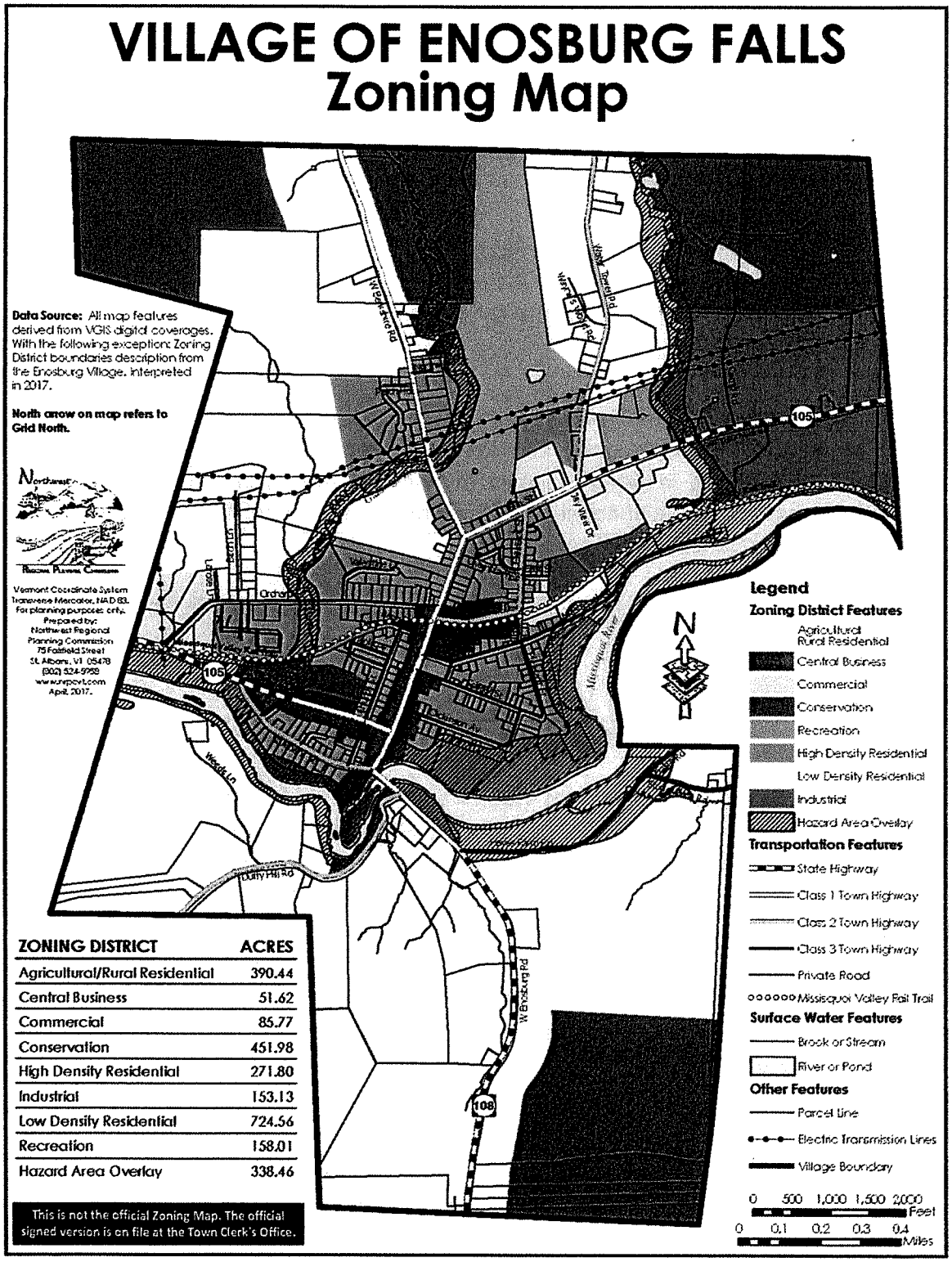
The provisions of these regulations are severable. If any provision or application of these regulations is found to be invalid, the invalidity will not affect other provisions or applications of the regulations.

SECTION 1.6 AMENDMENT AND EFFECTIVE DATE

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

TABLE 1.1 MUNICIPAL PERMITS AND APPROVALS: VILLAGE OF ENOSBURG FALLS			
Permit/Approval	**Required for**	**Issued by**	**See**
Zoning Permit (includes "sign permits")	All land development as defined in Article 11, including signs, accessory structures, conversions and changes of use unless specifically exempted from these regulations under section 3.1.	Zoning Administrator	Section 3.1
Access by Right-of-Way Review	Development on or access to lots without frontage on a maintained public road or public waters.	Development Review Board	Section 4.4
Conditional Use Review	All uses classified as conditional uses in certain zoning districts in Table 2.1 and nonconformities under Section 4.10.	Development Review Board	Section 3.2
Site Plan Review	All uses identified as requiring site plan review in certain zoning districts in Table 2.1 and some excavation and filling activities (see Section 4.7 and 5.7).	Development Review Board	Section 3.3
Variance Review	Requests for a variance from the provisions of these regulations.	Development Review Board	Section 3.4
Hazard Area Development Approval	Requests for land development in the Hazard Overlay District.	Development Review Board	Article 9
Planned Unit Development (PUD) Approval	Land subdivision and/or land development, which incorporates modifications from the provisions of these regulations to meet specific purposes as specified in Article 6 of these regulations.	Development Review Board	Article 6
Certificate of Compliance	Completion of all land development after the effective date of these regulations for which a zoning permit has been issued.	Zoning Administrator	Section 10.2
Subdivision Review	All land subdivisions as defined in Article 11, including boundary line adjustments.	Development Review Board	Article 7
Sketch Plan Review	All applications for subdivision approval.	Development Review Board	Section 7.3
Preliminary Plan Review	All applications for major subdivisions (as defined in Section 7.3), unless otherwise required by the DRB.	Development Review Board	Section 7.3
Final Plan and Plat Review	All applications for subdivision approval.	Development Review Board	Section 7.3
Plat Recording	All approved subdivisions of land, including boundary line adjustments.	Development Review Board	Sections 7.3

Enosburg Falls Zoning Map



ZONING DISTRICT	ACRES
Agricultural/Rural Residential	390.44
Central Business	51.62
Commercial	85.77
Conservation	451.98
High Density Residential	271.80
Industrial	153.13
Low Density Residential	724.56
Recreation	158.01
Hazard Area Overlay	338.46

This is not the official Zoning Map. The official signed version is on file at the Town Clerk's Office.

ARTICLE 2. ZONING DISTRICTS AND DISTRICT STANDARDS

SECTION 2.1 ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL MAP

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

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

B) In addition, the Hazard Area Overlay District is established to protect the Village's flood hazard areas and river corridors. The overlay district imposes an additional layer of regulations, as provided in Article 9, upon the lands in the Hazard Area Overlay District. Where the provisions of the underlying district differ from those of the Hazard Area Overlay District, the more restrictive shall govern.

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

1) The Village of Enosburg Falls Zoning Map, located at the village offices, identified by the signatures of the Village Trustees, attested by the Village Clerk; and

2) The most current flood insurance studies and maps, published by the Department of Homeland Security (DHS), Federal Emergency Management (FEMA), and National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Section 753 and most recent river corridor maps as provided the by Agency of Natural Resources as outlined in Article 9.

SECTION 2.2 INTERPRETATION OF ZONING DISTRICT BOUNDARIES

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

A) Boundaries indicated as approximately following the centerlines of roads, streams, transportation and utility rights-of-way shall be construed to follow such centerlines. The abandonment of roads and/or rights-of-way shall not affect the location of boundaries.

B) Boundaries indicated as approximately following lot lines shall be construed to follow such lot lines.

C) Boundaries indicated as following shorelines shall be construed as following the shoreline at the mean (average) water level.

D) Boundaries indicated as parallel to, or as extensions of features in A), B), and C) above shall be so construed.

E) The Zoning Administrator shall be responsible for determining the location of a district boundary line by the above rules or by the scale or dimensions on the Official Zoning Map. All decisions by the Zoning Administrator regarding the location of a district boundary line may be appealed to the Development Review Board per Section 10.3.

F) Where a district boundary line divides a lot in single ownership on and after the effective date of this bylaw or of amendments thereto, the Development Review Board may permit, as a conditional use, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

SECTION 2.3 APPLICATION OF DISTRICT STANDARDS

A) Agricultural/Rural Residential (ARR). The purpose of this district is to maintain the predominantly agricultural character of the area with its scattered residences. Since much of this district is prime farmland, new residential and other non-farm development will be reviewed to ensure minimal interference with continuing agricultural use. Planned unit development, the clustering of houses and developments that do not remove land from production will be encouraged by a density bonus (See Section 6.5).

B) Central Business District (CB). The purpose of the central business district is to provide a concentrated area to serve the business, service, and social needs for the community as well as the region. The historical character of the district focuses upon pedestrian access to a mixture of retail sales, personal services, professional services, business offices, and high density residences tightly spaced with minimal setback from the street. Residential uses add interest and vitality to the area and accommodate those who desire high-density housing.

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

C) Commercial District (CM). The purpose of the commercial districts is to provide areas with public water and sewer for larger-scale, land-intensive retail, commercial, and high-density residential development which may not be suited to location in the central business district.

These areas are intended to complement the central business district, and efforts will be made to connect them by attractive pedestrian paths, internal roadways, and landscaping.

The commercial districts are located at entrances to the village, and they must be designed to create a positive first impression for visitors. Master planning will be encouraged in order to promote efficient and economic connection with existing services and facilities. Development within the district will be reviewed to ensure attractiveness of sight design and signs. Strip development will be controlled by limiting the number of curb cuts and requiring consolidated access points onto RTE 105. See Section 3.2 and 3.3 for specific standards for the Commercial District.

D) **Conservation District (CON).** The purpose of this district is to protect the scenic and natural resource value of lands which lack direct access to public roads, are important for wildlife and wildlife habitat, and which are poorly suited for development. Location, topography, and soil limitations make lands in this district unsuitable for intensive development. Included are areas of steep slope and wetlands. No public water or sewer facilities are planned for these areas. See Section 3.2 (Conditional Use) for specific standards for the Conservation District.

E) **High Density Residential District (HD).** The purpose of this district is to maintain the privacy, and property values in established traditional residential neighborhoods. Appropriate commercial, cultural and recreational uses may be allowed to serve local residents without compromising the residential character of the district. This area is served by public services and facilities. Efforts to retain and improve the quality and vitality of older neighborhoods through restoration of deteriorating buildings should be encouraged. Residential development in this district should provide for a variety of dwelling types and for the needs of people of all income levels and ages.

F) **Industrial District (IND).** The purpose of this district is to provide an area with good highway access and municipal water and sewerage for manufacturing, warehousing, research and development, and their accessory uses. Since these are intensive uses with potential impacts and hazards to public health and welfare, all uses within the district shall receive conditional use review by the Development Review Board. Master planning is encouraged in order to promote efficient and economic connection with existing services and facilities. See Section 3.2 and 3.3 for specific standards for the Industrial District.

G) **Low Density Residential District (LD).** The purpose of this district is to provide opportunities for residential development at densities appropriate to the physical capability of the land outside of the more densely settled village area. These areas have public water supplies, and may or may not have municipal sewerage. A density bonus will be offered to encourage clustering of dwellings in this district in order to conserve open land for recreation, aesthetics, agriculture, and forestry (See Section 6.5).

H) **Recreation District (REC).** The purpose of this district is to reserve areas for current and future outdoor recreational facilities. The district includes areas within the village that are

presently being used for private and/or public recreation as well as additional areas to be reserved for the development of outdoor recreation facilities. It is intended that no development other than outdoor recreational use occur in this district.

I) **Hazard Area Overlay District (FH).** The purpose of this district is to prevent increases in flooding caused by development in flood hazard areas, to minimize future public and private losses due to flood, and to promote the public health, safety, and general welfare. Designation of this district is also required for continued Village eligibility in the National Flood Insurance Program. Included are all areas of special flood hazard in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753 and all River Corridor areas as designated by the Agency of Natural Resources. The Hazard Area Overlay District overlays other districts and places additional restriction upon development in the areas to which it applies.

In addition to meeting all other applicable standards in these regulations, development review under Article 9 is required for all land development within the Hazard Area Overlay District. Development review may be conducted concurrently with any other required development approvals as provided in Section 10.1(I).

SECTION 2.4 ZONING DISTRICT USES AND DIMENSIONAL STANDARDS

A) All uses and structures must meet the district dimensional requirements and all other applicable provisions of these regulations except as authorized by a variance, waiver, or by approval of a planned unit development.

B) Table 2.1 lists uses for each zoning district (except the Flood Hazard Overlay District, see Article 9), which may be permitted (P), permitted with site plan approval (P/S), conditionally permitted (C), conditionally permitted with site plan approval (C/S), or prohibited (X). Procedures for review include the following:

1) Permitted uses and structures may be approved by the Zoning Administrator. However, permitted uses may also require site plan approval from the Development Review Board prior to issuance of a zoning permit, as provided in Section 3.3.

2) Conditional uses require approval by the Development Review Board, as provided in Section 3.2. Conditional uses may also require site plan approval from the Development Review Board, as provided in Section 3.3. Conditional use review and site plan review may be completed concurrently, as provided in Section 10.1(I).

3) Prohibited uses are not allowed in the zoning district.

4) Uses not listed in Table 2.1 as a permitted use or a conditional use, in any district, may be considered as a conditional use. This shall only apply if the proposed use is of the same general character as those uses that are permitted or conditional in the district in which the use is proposed. This section shall not be construed to allow for a proposed use to be considered in a district when it is clear that the proposed use is permitted or conditional in a different district. This section shall not apply to proposed uses that are similar to prohibited uses within the district in which the use is proposed.

Table 2.1 Allowed Uses by Zoning Districts *(See Section 2.3(I) for allowed uses in the Flood Hazard Overlay)*								
"P" – Permitted Use "C" – Conditional Use "S" – Site Plan Review "X" – Prohibited								
See section 2.3 to decipher Zoning District abbreviations	ARR	CB	CM	CON	HD	IND	LD	REC
Residential Uses								
Nursing Home	X	C/S	C/S	X	C/S	X	C/S	X
Mobile Home Park (See Section 5.13)	X	X	X	X	X	X	C/S/ PUD	X
Multi-Family Dwelling	X	P/S	P/S	X	P/S	X	X	X
Senior Housing	X	P/S	P/S	X	P/S	X	X	X
Single-Family Dwelling[1]	P	P	X	C	P	X	P	X
Two-Family Dwelling	X	P	X	X	P	X	P	X
Commercial Uses								
Adaptive Reuse of Historic Structure (See Section 5.3)	C/S	C/S	C/S	X	C/S	X	C/S	C/S
Agribusiness	C/S	C/S	C/S	X	X	C/S	C/S	X
Auction House (inside)	X	P/S	P/S	X	X	X	X	X
Automobile Repair (See Section 5.4)	X	P/S	P/S	X	X	P/S	X	X
Automobile Sales and or Rental	X	C/S	C/S	X	X	P/S	X	X
Bed and Breakfast	P/S	P/S	P/S	X	P/S	X	P/S	X
Brewery/Winery/Distillery	X	C/S	C/S	X	X	P/S	X	X
Building Contractor Yard	X	X	P/S	X	X	P/S	X	X
Campground (See Section 5.5)	C/S	X	X	X	X	X	C/S	P/S
Car Wash	X	C/S	C/S	X	X	C/S	X	X
Child Care Facility	C/S	P/S	P/S	X	P/S	C/S	P/S	C/S
Convenience Store	X	P/S	P/S	X	C/S	X	X	X

Table 2.1 Allowed Uses by Zoning Districts *(See Section 2.3(I) for allowed uses in the Flood Hazard Overlay)*								
"P" – Permitted Use "C" – Conditional Use "S" – Site Plan Review "X" – Prohibited								
See section 2.3 to decipher Zoning District abbreviations.	ARR	CB	CM	CON	HD	IND	ID	REC
Extraction and Quarrying (See Section 5.7)	C/S	X	X	X	X	C/S	C/S	X
Financial Institution	X	P/S	P/S	X	X	X	X	X
Funeral Home	X	C/S	P/S	X	C/S	X	C/S	X
Gas Station (See Section 5.4)	X	C/S	C/S	X	X	C/S	X	X
Hazardous Materials Use (See Section 5.10)	X	X	C/S	X	X	C/S	X	X
Kennel or Veterinary Clinic	C/S	C/S	C/S	X	C/S	X	C/S	X
Light Manufacturing	X	X	P/S	X	X	P/S	X	X
Lodging Facility	X	P/S	P/S	X	X	X	X	X
Manufacturing	X	X	X	X	X	P/S	X	X
Mixed Use (See Section 5.12)	C	C	C	C	C	C	C	C
Personal Service	X	P/S	P/S	X	X	X	X	X
Personal Storage Units	X	X	X	X	X	P/S	X	X
Professional Service	X	P/S	P/S	X	X	X	X	X
Private Club	X	P/S	P/S	X	C/S	X	C/S	C/S
Recreation Indoor	X	P/S	P/S	X	X	X	C/S	C/S
Recreation Outdoor	P/S	C/S	C/S	P/S	C/S	X	P/S	P/S
Research/Testing Facility	X	X	P/S	X	X	P/S	X	X
Restaurant	X	P/S	P/S	X	X	X	X	X
Retail Sales & Service (≥50,000 sqft retail area)	X	C/S	C/S	X	X	X	X	X
Retail Sales & Service (<50,000 sqft retail area)	X	P/S	P/S	X	X	X	X	X
Roadside Stands	P	X	P	X	X	X	P	P
Salvage Yard	X	X	X	X	X	C/S	X	X
Sawmill	C/S	X	X	X	X	C/S	X	X
Slaughterhouse	C/S	X	X	X	X	C/S	X	X
Tavern/Bar	X	P/S	P/S	X	X	X	X	X
Warehousing	X	X	C/S	X	X	P/S	X	X

Table 2.1 Allowed Uses by Zoning Districts *(See Section 2.3(I) for allowed uses in the Flood Hazard Overlay)*								
"P" – Permitted Use "C" – Conditional Use "S" – Site Plan Review "X" – Prohibited								
See section 2.3 to decipher Zoning District abbreviations.	ARR	CB	CM	CON	HD	IND	LD	REC
Public Facilities and Other Uses								
Cemetery	P/S	X	X	X	X	X	P/S	X
Community Care Facility (See Section 5.9)	C/S	P/S	P/S	X	C/S	X	C/S	X
Community Center	X	P/S	P/S	X	C/S	X	X	C/S
Cultural Facility	X	P/S	P/S	X	C/S	X	X	C/S
Educational Facilities	X	P/S	P/S	X	P/S	X	C/S	X
Hospital/Health Clinic	X	P/S	P/S	X	X	X	X	X
Parking Garage	X	P/S	P/S	X	X	X	X	X
Place of Worship	X	P/S	P/S	X	P/S	X	P/S	X
Public Facilities	P/S	P/S	P/S	X	P/S	X	P/S	X
Solid Waste Transfer Station	X	X	X	X	X	P/S	X	X
Telecommunication Facility (See Section 5.16)	C	C	C	C	C	C	C	C
Transit Facility	X	P/S	P/S	X	X	X	X	X
Wind Energy Conversion System (See Section 5.17)	C	C	C	C	C	C	C	C

[1] In accordance with the State statute [§4412(5)], a Child Care Home shall be considered by right to constitute a permitted single family residential use of the property. In accordance with the State statute [§4412(G)], a Group Home shall be considered by right to constitute a permitted single family residential use of property. Please refer to the definitions of Child Care Home and Group Home in Article 10.

SECTION 2.5 DIMENSIONAL REQUIREMENTS

A) Requirements. All primary and accessory structures shall conform with the minimum dimensional requirements of the district in which they are located as required in Table 2.2.

B) Setbacks. The setback is a horizontal line measured from the edge of a road, lot line, boundary or other feature (e.g. stream, shoreline, or wetland), to the nearest part of a building, structure, or parking area on the premises.

1) The following uses may be permitted in the setback area: fences, signs (except in side and rear, see Section 4.12), utilities, retaining walls, driveways, pedestrian walkways, and paths.

2) Front setbacks shall be measured from the edge of a road. Side and rear setbacks shall be measured from property lines.

3) Any interior (non-frontage) lot which does not have frontage on a public or private road or public waters shall meet minimum setbacks from all property lines equal to the front setback distance for the district in which it is located.

C) Density. Residential density shall not exceed one dwelling unit per the minimum lot size in any zoning district. The calculation shall not include accessory dwelling units or residential dwellings units that were created as a part of a bonus density granted per Section 6.5.

Table 2.2 Dimensional Standards by Zoning District

	ARR	CB	CM	CON	HD	IND	LD	REC
Min. Lot Size	SF Dwelling – 2 Ac Other Uses – 2.5 Ac	①	20,000 sq ft	10 Ac	SF Dwelling– 10,000 sq ft 2F & MF Dwellings– 20,000 sq ft Other Uses– 40,000 sq ft	80,000 sq ft	SF Dwelling w/ onsite water and sewer – 40,000 sq ft SF Dwelling w/ offsite water and/or sewer – 20,000 sq ft Other Uses – 60,000 sq ft	2 Ac ③
Min. Frontage	SF & 2F Dwelling – 200 ft	①	75 ft	300 ft.	SF Dwelling–75 ft 2F and MF	200 ft	SF and 2F Dwellings – 150 ft Other Uses – 200	100ft ③
Min. Lot Depth	None Specified	①	100 ft	300 ft.	None Specified	200 ft	None Specified	100ft ③
Min Setback Road	50 ft	①	15 ft	50 ft.	SF, 2F, & MF Dwellings–② Other Uses –	75 ft	50 ft	50 ft ③
Min. Setback Side Yard	25 ft	①	15 ft	75 ft.	SF, 2F, & MF Dwellings–15 ft	15 ft	SF and 2F Dwellings – 15 ft Other Uses – 25	25 ft ③
Min. Setback Rear Yard	30 ft	①	15 ft	75 ft.	SF Dwellings– 10 ft 2 F and MF	15 ft	30 ft	30 ft ③

① The front yard setback for structures in this district shall be the average of the front yard setbacks of the principal buildings located on either side of the proposed structure, but in no event is a greater setback that 25 feet required. No other dimensional requirements are stipulated.

② Minimum front yard setbacks for single, two, and multi-family dwellings will be determined by the existing setbacks of the neighboring properties. The minimum front yard setback shall be equivalent to the closest setback of existing dwellings on lots adjacent to the property. The maximum front yard setback shall be equivalent to the farthest setback of existing dwellings on lots adjacent to the property. In cases where there is only one adjacent property, or no adjacent properties the average setback on the street shall be used. For existing structures, the minimum front yard setback shall be 25 ft.

③ No dimensional requirements specified for uses other than outdoor recreation. For all other uses requiring conditional use review, the DRB may specify dimensional requirements.

ARTICLE 3. DEVELOPMENT REVIEW

SECTION 3.1 ZONING PERMIT PROCEDURE

See Figure 3.1 for a flow chart of the process to obtain a Zoning Permit.

A) **Applicability**. No land development, as defined in Article 11, shall commence in the Village of Enosburg Falls without a zoning permit issued by the Zoning Administrator in accordance with Section 10.1(C), unless specifically exempted from the provisions of these regulations below. Where approval from the Development Review Board is required, such approval is required prior to issuance of a zoning permit. A "sign permit" is equivalent to a zoning permit.

B) **Application Requirements**. A complete application for a zoning permit shall include all the information required in Table 3.1.

C) **Zoning Permit Approval Requirements.**

1) **Does the proposal require review by the Development Review Board**? Development Review Board approval is required for conditional uses (Section 3.2), site plan review (Section 3.3), Planned Unit Developments (Article VI), subdivision review (Article VII) and requests for variances (Section 3.4). Nonconformities shall comply with Section 4.10 and may require Development Review Board approval. The Zoning Administrator can aid an applicant in determining which approvals may be needed. All required approvals must be obtained before the Zoning Administrator may issue a zoning permit.

2) **Does the proposal meet the zoning district use and dimensional standards?** Before issuing a zoning permit, the Zoning Administrator shall confirm that the use proposed is a permitted use according to Table 2.1 or proper approval from the Development Review Board. In addition, the Zoning Administrator shall confirm that the proposal conforms to the dimensional requirements, including setbacks, as listed in Table 2.1.

3) **Does the proposal meet the standards in the General Regulations (Article 4), Specific Use Standards (Article 5), and Planning and Design Standards (Article 8)?** Before issuing a zoning permit, the Zoning Administrator shall confirm that the proposal conforms to the decision and conditions imposed in the Development Review Board approval (if one exists) and meets the standards in the General Regulations (Article 4), Specific Use Standards (Article 5), and Planning and Design Standards (Article 8), as applicable.

4) **Has the applicant obtained all other required local permits or approvals?** Before issuing a zoning permit, the Zoning Administrator shall confirm that the proposal has obtained all required local permits and approvals, including but not limited to approval for a curb cut on a public highway (access permit) and conformance with municipal road ordinances.

5) **Are there any State Permits and/or Approvals Required?** As a general rule, zoning permits shall not be conditioned on any required state permits or approvals. However, the

Zoning Administrator shall require the following before the issuance of a zoning permit in relation to state permits, as applicable:

a) If a Wastewater and Potable Water Supply Permit is not required, written proof of such from the Vermont Department of Environmental Conservation. See Section 4.15 for requirements relating to the initiation of construction and certificates of occupancy concerning Wastewater and Potable Water Supply permits.

D) **Zoning Permit Public Notice, Issuance, Effective Date and Expiration.** Public notice and issuance requirements shall be met before a zoning permit may be issued according to Section 10.1.

Figure 3.1. Timeline for Zoning Permits and Approvals

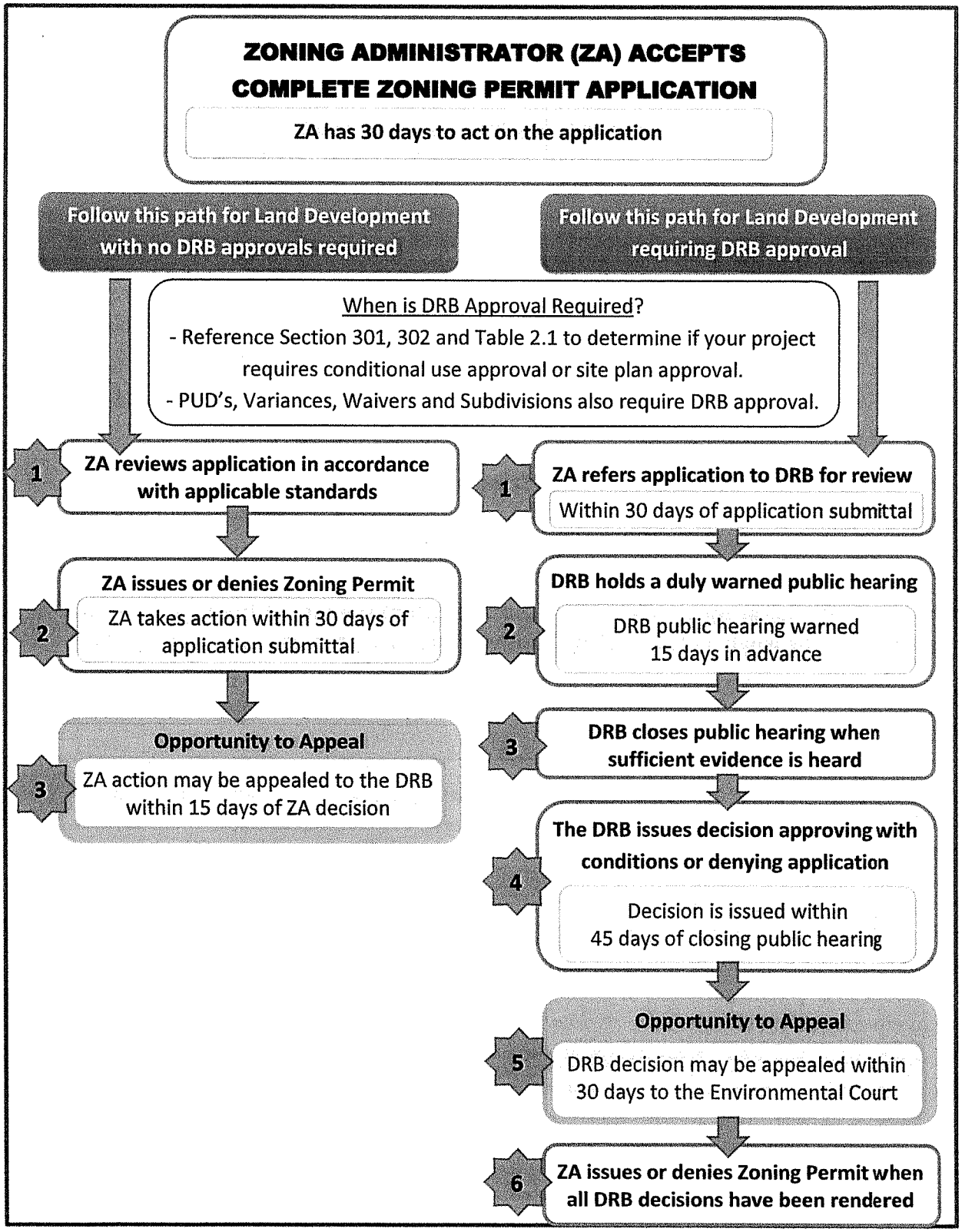


TABLE 3.1 ZONING PERMIT AND DEVELOPMENT REVIEW APPLICATION REQUIREMENTS:
Application Requirements:
Application for a zoning permit or development review approval shall be made on a form provided by the Village of Enosburg Falls and shall include the information and materials listed in this table as applicable. Development in the Hazard Area Overlay District is subject to the application requirements in this table, as applicable, and those outlined in Article 9.
A) Requirements for all land development applications:
✳ Name and mailing address of the property owner(s) as listed on the title/deed and the applicant (if not owner) and the applicants interest in the property (lessee, option holder, owner's agent). Attach a copy of the lease/option, etc. if applicable.
✳The 911 address, parcel ID number, and the book and page number of the title/deed for the property under application, and the date the property was acquired.
✳A list of names and most recent mailing addresses of all abutting property owners.
✳The zoning district within which the property lies.
✳The size of the lot in square feet or acres; the length of the feet of frontage on a town or state highway; and the length in feet of all other property lines (on the sides and in the back).
✳ A description of the existing buildings and structures on the property and what they are used for and how long that use has continued.
✳ A description of the proposed changes to the property and what they will be used for.
✳Information regarding any potential for odor, noise, smoke, dust, dirt, noxious gas, glare, fire, or explosion during the construction of the development or the proposed use of the land.
✳Two (2) original, complete copy of a site plan, drawn to scale, with north arrow and date of preparation. *(If required by the Development Review Board, site plans shall be prepared by a licensed professional engineer, surveyor, or architect, the name of which shall be noted on the map along with map scale, north arrow, and date of preparation)*
B) Each application shall show the following information in sufficient detail to determine whether the proposal is in conformance with these regulations:
- Dimensions of the lot and lot acreage, including legal property boundaries.
- Zoning district boundaries.
- Location, footprint, and height of existing and proposed structures, additions, and land use areas, and the distance between each.

TABLE 3.1 ZONING PERMIT AND DEVELOPMENT REVIEW APPLICATION REQUIREMENTS:
- Location and dimensions of existing and proposed easements, deed restricted areas, rights-of-way, sidewalks, parking areas, and utilities.
- Location of major site features, including surface waters, wetlands, floodplains, rock outcroppings, and stands of trees.
- Stormwater management systems (i.e. ponds, outfalls, culverts, swales, low-impact development features) and/or connections to existing municipal stormwater infrastructure; municipal sewer connections or onsite wastewater management systems; and municipal water supply connection or onsite water supply system, as applicable.
- Setback distances in feet from property boundaries, rights-of-way, surface waters, and wetlands.
- Where locations of, and relationship between property lines, roads, buildings, and other required information is in doubt, a land survey may be required.
- Any other information that may be needed to determine compliance with these regulations.
C) Additional application requirements for land development requiring conditional use and/or site plan review:
- **Parking, Loading and Circulation Plan.** Location and dimension of parking areas, loading and unloading facilities, points of ingress and egress of vehicles to and from the site to public streets, and pedestrian rights of way.
- **Lighting Plan.** A lighting plan that shows the location, height, and lumens of outdoor lighting (Section 4.9)
- **Stormwater Management Plan.** A stormwater management plan that provides information regarding the following: stormwater drainage, infiltration, retention and treatment facilities, including culverts and ditches. This plan shall be accompanied by a map showing topography with contours at intervals of not more than 20 feet.
- **Landscaping Plan.** A plan showing the existing and proposed landscaping, screening and natural features on the site (Section 8.2)
- **Erosion Control Plan.** An erosion and sediment control plan that shows how stormwater runoff will be managed during project construction (Section 8.6).

D) In addition, each application shall include the following, as applicable:	**Site Plan Review**	**Conditional Use Review**	**Variance Requests**
Construction sequence and time schedule for completion of each phase of development.	✓	✓	
Estimated daily and peak traffic generation.	✓	✓	

TABLE 3.1 ZONING PERMIT AND DEVELOPMENT REVIEW APPLICATION REQUIREMENTS:			
Detailed specifications of planting and landscaping materials to be used, and a plan for long term maintenance and replacement of plantings.	✓		
Cost estimates of all site improvements.	✓		
In Central Business District Only – A scale elevation of the existing structure and proposed changes, or a scale elevation of the new structure including details of surface materials, color, and window design.	✓		
Statement of how the proposed development fits the purposes of the land use district in which it is located.		✓	
Expected impact on existing and planned community facilities		✓	
For nonconforming uses or structures - statement of how the proposal meets standards in Section 4.10.		✓	
A statement describing the variance requested from one or more provisions of these Regulations and the alleged grounds why such relief is believed proper under the circumstances based on the five (5) statutory criteria listed in Section 3.4 and Section 4449 of the Act.			✓
Any other type of applicable plan required per Article 4 – General Regulations, Article 5 – Specific Use Regulations, or Article 8 – Planning and Design Standards	✓	✓	✓
A Letter of Intent for a State Highway Access Permit from VTrans, if applicable,	✓	✓	✓
Any other information which the Development Review Board requires to ensure that the provisions of these regulations are met.	✓	✓	✓

D) Exemptions. A zoning permit shall not be required for the following types of land development:

1) **Local Exemptions.** The following uses and structures are locally exempted from requirements to receive a zoning permit or approval under these regulations. However, such land development shall still be subject to minimum standards required in these regulations:

a) One accessory structures per property that does not exceed 80 square feet in size.
b) Garage/lawn/porch sales that do not last for more than three (3) consecutive days nor more than three (3) times a year do not require a zoning permit. Such sales that do not meet this requirement shall comply with Section 5.8. Signs for garage/lawn/porch sales shall be considered temporary signs regulated according to Section 4.14(B)(3).
c) Routine maintenance and landscaping of existing property that does not cause changes in runoff onto an adjacent property
d) Excavation, grading, or fill that meets the requirements of Section 4.7
e) Interior renovations that do not change the use of a structure.
f) Handicapped ramps.
g) Patios.
h) Sidewalks located on a property with a single family home use and used to provide access to the single family home.
i) Stairs used to access structures provided that the stairs are not located within a setback.
j) Fences less than 6 feet in height. Fences shall be exempt from all setback requirements in these regulations.
k) Recreational trails on public lands.
l) Driveways providing access to single family homes. All driveways shall still be required to meet the standards in Section 4.4 – Access Requirements and Driveways.
m) Fire escapes required per the Vermont State Fire and Building Safety Code.

2) **State Exemptions**. Except for those uses located in the Flood Hazard Overlay District, the following uses and structures are specifically exempted from municipal land use and development regulations by state law; no municipal zoning permit or approval under these regulations shall be required.

a) Required agricultural practices (RAPs) as adopted in rules by the Agency of Agriculture (see www.vermontagriculture.com/ARMES/awq/AAPs. htm), including farm structures, as defined in Vermont Statute (Title 6 §4810). However, written notification, including a sketch plan of the farm structure showing setback distances from road rights-of-way, property lines, and surface waters shall be made to the Zoning Administrator prior to any construction as required under the RAPs. Agricultural practices that are governed by the RAP rules include, but are not limited to the following:

i. The confinement, feeding, fencing, and watering of livestock.
ii. The handling of livestock wastes and by-products.
iii. The collection of maple sap and production of maple syrup.
iv. The preparation, tilling, fertilization, planting, protection, irrigation and harvesting of crops.

b) Public utility power generating plants and transmission facilities that are regulated by the Vermont Public Service Board [under 30 V.S.A. §248], including net-metered wind generation facilities and solar panels.
c) Accepted management practices (AMPs) for silviculture (forestry) as defined by the Act.
d) Hunting, fishing or trapping on public or private land as specified by the state [under 24 V.S.A. §2295]. This excludes facilities that may support such activities, such as firing ranges, rod and gun clubs, and fish and game clubs, which are subject to these regulations.

E) **Certificate of Compliance.** All land development shall also be required to receive a certificate of compliance that documents all work has been completed in accordance with the zoning permit. See Section 10.1.

SECTION 3.2 CONDITIONAL USE REVIEW

A) **Applicability**: No zoning permit may be issued by the Zoning Administrator for uses requiring conditional use approval as listed in Table 2.1 and land development associated with nonconformities according to Section 4.10 until that approval has been granted by the Development Review Board.

B) **Purpose**: Conditional use review requires compliance with standards addressing the impact of proposed land uses on adjacent properties, the neighborhood or district in which the project is located, and the community at large. Standards and conditions emphasize considerations to identify, avoid, and/or mitigate off-site impacts of a proposed project.

C) **Application Requirements.** A complete application for conditional use review shall include all the information required in Table 3.1.

D) **Public Notice and Hearing Requirements.** The Development Review Board shall hold a public hearing before issuing a decision on whether the proposed land development shall receive conditional use approval. Public notice, public hearing, and decision requirements in Section 10.1 apply.

E) **General Standards**: When determining the appropriateness of a proposed conditional use, the Development Review Board shall determine that the development or use will not adversely affect any of the following general conditional use criteria:

1) **The capacity of existing or planned community facilities**. The Board shall consider the demand for community services and facilities that will result from the proposed development and determine whether that demand will exceed the capacity of existing facilities or services (such as school capacity, emergency services, recreation fields, etc.). Conditions may be imposed regarding the timing and phasing of development to minimize the impact on community facilities and services, including requiring the applicant to

contribute funds and/or physical improvements toward the provision of new or expanded facilities to mitigate the impacts of the proposed development. In making such a determination and imposing any subsequent conditions, the Board will consider any capital program or budget in effect at the time of application.

Figure 3.1 – Master Plans
Master Plans shall include enough detail to illustrate or prove:

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

2) **The character of the area affected.** A conditional use may not, by its nature, scale, or conduct, have an undue adverse effect on the character of the area as it exists or would exist if fully developed in accordance with the Town and Village of Enosburgh, Vermont Comprehensive Municipal Plan. 'Character of the area' refers to the distinctive traits, qualities, attributes, appearances, pattern of use, sense of community and factors, which define its identity. When considering the impact of a proposed conditional use on the character of the area affected, the Board shall consider the proposal's compatibility with the purpose and character of the affected zoning district as defined in Section 2.3 of these bylaws, the Town and Village of Enosburgh, Vermont Comprehensive Municipal Plan, and the testimony of the interested parties.

3) **Traffic on roads and highways in the vicinity.** The Board shall consider the projected impact of traffic resulting from the proposed development on the capacity, safety, efficiency, and use of affected public roads, bridges, and inter-sections (for example - a reduction in existing level of service below "C"). Level of service is the classification of general traffic conditions. The level of service ranges from "A" (the best), to "F." It is a measure of how a highway or an intersection performs in terms of speed, travel time, freedom to maneuver, traffic interruptions, and delays. When the capacity of a road to accept increased traffic is limited, the conditional use shall not exhaust or exceed the remaining capacity of the road.

4) **Bylaws and Ordinances in Effect.** Proposed conditional uses must conform to all municipal bylaws and regulations in effect at the time of submission of the application, including conformance with the policies of the Municipal Plan and compliance with conditions of prior permits or approvals, including subdivision approval.

5) **Utilization of renewable energy resources.** A conditional use shall not excessively inhibit or restrict access to or the use of resources including sun, wind, and water for energy generation.

F) Specific Standards: In addition to the general standards above, the following must be applied by district in order to further the purposes of the Municipal Plan.

1) Specific Standards for the Commercial District:

   a) Applicants will be required to demonstrate how their proposal complements existing business development in the community.
   b) New roads shall be designed and constructed to provide for smooth and easy pedestrian and vehicle access from the central business district.
   c) The proposed use shall be designed to provide efficient connection to municipal services and facilities.
   d) The board may require that the proposal be submitted as a Planned Unit Development in order to ensure the most effective use of the site.
   e) If the proposal is only a partial use of the development site, a master plan may be required in order to ensure coordinated future development.

2) Specific Standards for the Industrial District:

   a) Master planning shall be required prior to any development to promote efficient and economic connection with existing services and facilities and prevent sprawl. The Development Review Board will work with the landowner to secure technical assistance for completing a master plan.

3) Specific Standards for the Conservation District:

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

G) Conditions. The Development Review Board shall have the power to impose reasonable conditions and safeguards as it deems appropriate and necessary when approving conditional use applications including:

1) Limiting lot coverage or height of buildings because of undue obstruction to view and reduction of light and air to adjacent property;

2) Controlling the location and number of vehicular access points to development to minimize traffic hazards;

3) Requiring measures to minimize the adverse effects of land alterations on soil erosion, water quality, and scenic beauty as may be recommended by the county forester, Soil Conservation Service, district highway engineer, and other experts;

4) Requiring suitable landscaping where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area;

5) Specifying a time limit for construction of improvements to land or structures, including conditions to phase residential developments to minimize the impact on schools and other community facilities and services;

6) Requiring a Performance and Payment Bond from the applicant to ensure that the project is constructed and maintained in compliance with the permit and these regulations;

7) Construction of a new road, water supply, or wastewater disposal system for common use by 3 or more dwelling units, and;

8) Any additional conditions and safeguards which the Development Review Board deems necessary to implement the purposes of the Act, the municipal plan, or these zoning regulations.

SECTION 3.3 SITE PLAN REVIEW

A) Applicability. No zoning permit may be issued by the Zoning Administrator for uses requiring site plan approval (see Table 2.1) until that approval has been granted by the Development Review Board. Although not required, applicants for site plan approval are encouraged to meet with the Development Review Board informally early in the site design process. The Development Review Board may seek input from Village staff and/or consultants to help in the site plan review process, the costs of which may be assigned to the applicant.

B) Purpose. Site Plan review requires that a project be of high quality, attractive and functional site design, and that overall building and site design be consistent with the purpose and character of the district within which it is located. Standards and conditions emphasize those considerations related to internal layout of the site, its physical design and appearance as viewed from off-site, and the functional integration of the site with surrounding properties and uses.

C) Application Requirements. A complete application for site plan review shall include all the information required in Table 3.1.

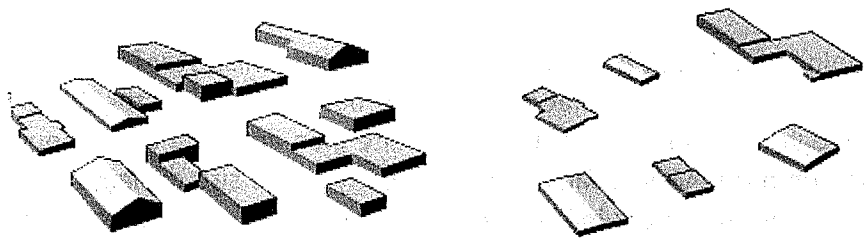
D) Public Hearing and Notice Requirements. The Development Review Board shall hold a public hearing before issuing a decision on whether the proposed land development shall receive site plan approval. Public notice, public hearing, and decision requirements in Section 10.1 apply.

E) General Standards. The Development Review Board shall consider and impose appropriate safeguards and conditions with respect to the standards in the section, the General Regulations in Article 4, the Specific Use Standards in Article 5, and the Planning and Design Standards in Article 7.

1) **Drive-Thru Windows.** The use of drive-thru windows (ex. fast food restaurants or financial institution) shall not be allowed, regardless of the use of the property. This standard shall not apply to uses and structures located in the Commercial and Central Business Districts.

F) Specific Standards for Commercial and Central Business District. In reviewing a site plan, the Development Review Board shall consider and impose appropriate safeguards and conditions with respect to design issues in the Commercial and Central Business District. These standards are intended to ensure new construction, rehabilitation and other modifications respect the existing character of Enosburg Village. These design standards are also intended to promote and enhance the economic vitality of the Commercial and Central Business District, and maintain Enosburg Village's sense of place.

Figure 3.2 - Location and Design Guidelines to Encourage Interconnectivity



Courtesy of the Smart Growth Vermont's publication: Growing Smarter: Best Site Planning.

1) **Building Siting.**

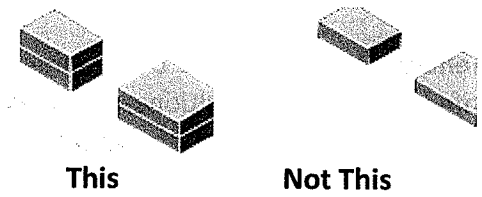
a) Buildings shall be located and designed so as to encourage interconnected activity between neighboring buildings. Access by pedestrians will be emphasized.
b) New parking areas shall be located behind or alongside buildings. New parking areas shall not be located in the area between the road and any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

2) **Building Facades.**

a) The portion of any building visible from the road shall be given special detailing and architectural consideration. This includes:

i) Adequate number and arrangement of openings and windows, avoiding either a

Figure 3.3 - Guidelines for Parking Lot Placement



Courtesy of the Smart Growth Vermont's publication: Growing Smarter: Best Site Planning.

cluttered appearance or a blank façade.

ii) Clearly defined entry doors with added detail.

iii) The use of native and natural materials (wood, stone, brick) or other materials with a similar appearance (metal siding, T-111, stucco or other glaring or reflective materials shall not be used on any portion of the building visible to the street).

iv) Inclusion of design features such as cornices, trims, columns, or accent bands to prevent large areas of unbroken color.

v) Screening of rooftop mechanical equipment, telecommunications infrastructure and similar devices.

b) Every reasonable effort shall be made to preserve the distinguishing original qualities of a building, structure, or site and environment. The removal or alteration of any historic material or architectural features shall be avoided.

c) Contemporary design for new structures or sites, alterations or additions to existing properties shall not be discouraged when such new development, alterations and additions are compatible with the design character of the surrounding environment and any original structure(s).

d) Architectural designs for new structures shall relate to and incorporate elements of the scale, materials, motifs, colors and design of significant buildings of architectural merit in adjacent districts. Generic designs shall be avoided or modified to relate to local architectural styles.

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

G) Exemptions. Changes in use that do not require a change in the design of the site shall be exempt from site plan approval.

SECTION 3.4 VARIANCE REVIEW

A) An applicant may apply to the Development Review Board for a variance from the provisions of these regulations for structures. The purpose of a variance is to address a hardship related to the physical characteristics of a particular lot, which hampers the owner from enjoying the same property rights accorded to others in the same zoning district.

B) The Development Review Board may render a decision in favor of the applicant only upon establishing all the following facts in its decision:

2) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the

provisions of the zoning regulation in the neighborhood or district in which the property is located;

3) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;

4) That the unnecessary hardship has not been created by the applicant;

5) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and

6) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the town plan.

C) In rendering a decision in favor of the applicant for a variance, the Development Review Board may attach such conditions which it may deem necessary to implement the Act and/or the Town and Village of Enosburgh, Vermont Comprehensive Municipal Plan. In no case shall the Development Review Board grant a variance for a use that is not permitted or conditionally permitted in the applicable district.

D) Variances for structures located in the Hazard Overlay District shall only be granted in accordance with this section and the criteria in Article 9.

SECTION 3.5 WAIVERS AND MODIFICATIONS

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

B) In the issuance of waivers the Development Review Board:

1) Shall consider and may require design features, screening, or some other remedy in order to mitigate anticipated impacts of any such waiver. The design feature should have a minimum height of five (5) feet above grade level and shall provide adequate privacy to the surrounding use(s). Options include a wall, a solid fence, a densely planted hedge or natural and/or man-made landforms.
2) May require that all outdoor storage of materials and equipment, including waste

storage facilities, shall not be stored or located within the reduced setback area.

3) Shall provide only the minimum waiver that will represent the least deviation possible from the bylaw.

C) Applications for waivers shall be considered by the Development Review Board after a public hearing held in accordance with Section 10.1 D.

Figure 3.2 - Determining Undue Adverse Effect

The following test shall be used by the Development Review Board when the bylaw requires the Development Review Board to determine whether or not an undue adverse effect is being created.

1. First, the Development Review Board shall determine if a project is creating an adverse effect upon the resource, issue and/or facility in question. The Development Review Board shall determine such by responding to the following question:

    a) Does the project have an unfavorable impact upon the resource, issue and/or facility in question?

2. If it has been determined by the Development Review Board that an adverse effect is being created by a project, the Development Review Board shall then determine if the adverse effect is undue. To determine whether or not an adverse effect is undue, the Development Review Board shall respond to the following two questions:

    a) Does the project conflict with a clear, written standard in these Regulations or the Municipal Plan applicable to the resource, issue or facility in question?

    b) Can the unfavorable impact be avoided through site or design modifications, or mitigation, or other conditions of approval?

The Development Review Board shall conclude that adverse effect is "undue" if the answer to 2(a) is YES **OR** the answer to 2(b) is NO.

ARTICLE 4. GENERAL REGULATIONS

SECTION 4.1 APPLICABILITY

A) The following standards shall apply to all land development, as defined in Article 11 – Definitions, in all zoning districts. If there is conflict between a standard in this section and a standard in another part of these regulations, the more restrictive shall apply.

SECTION 4.2 USES

A) Preexisting Uses. Any use lawfully existing as of the effective date of these regulations shall be authorized to continue solely on the basis of the provisions of these regulations.

B) Preexisting Non-conforming Uses. Pre-existing uses that do not conform to the requirements of these regulations shall be subject to the provisions of Section 4.10 - Nonconformities.

C) Permitted Uses. Permitted uses are marked in Table 2.1 by the letter 'P'. In districts where they are allowed, permitted uses require a zoning permit and may be approved by the Zoning Administrator subject to the development permit standards in Article 3.

D) Conditional Uses. Conditional uses are marked in Table 2.1 by the letter 'C'. Conditional uses require approval by the Development Review Board according to the conditional use provisions in Section 3.2 as a pre-requisite to the Zoning Administrator issuing a zoning.

E) Exempt Uses. Uses that are exempt from the requirements of these regulations are listed in Section 3.1.

F) Prohibited Uses and Uses Not Specifically Listed

1) Prohibited uses are in Table 2.1 by the letter "X" and are prohibited in the corresponding zoning district.

2) Uses not listed may be subject to the standards in Section 2.4(B)(4).

G) Principal Uses. There shall be only one principal use on a lot. However, properties may have more than one principal use on a lot if the property has received approval for mixed use per Section 5.12 – Mixed Use or PUD per Article 6.

H) Accessory Uses. Accessory uses may be permitted by the Zoning Administrator subject to the following requirements.

1) Relation to Principal Uses. Accessory uses are permitted only in connection with, incidental to, and on the same lot with, a principal use which is permitted in the

particular zoning district. Accessory uses are subject to the requirements outlined in Table 2.1.

2) Accessory Dwelling Units. Accessory dwelling units as mandated by 24 VSA 4412 (1)(E) shall be regulated as set forth in Section 5.2 – Accessory Dwelling Units.

I) Temporary Uses. See Section 4.3 - Temporary Structures.

SECTION 4.3 STRUCTURES

A) Preexisting Structures. Any pre-existing structure lawfully existing as of the effective date of these regulations shall be authorized to continue solely on the basis of the provisions of these regulations.

B) Pre-existing Non-conforming Structures. Pre-existing structures that do not conform to the requirements of these regulations shall be subject to the provisions of Section 4.10 – Nonconformities.

C) Principal Structures. A structure or a group of structures in or on which is conducted the principal use(s) of the lot. There may be more than one principal structure on a lot.

D) Accessory Structures.

1) **Relation to Principal Structure.** Accessory structures are permitted only in connection with, incidental to, and on the same lot with, a principal structure which is permitted in the particular zoning district. No accessory structure shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized.

2) **Location.** Accessory structures shall not be erected in any right-of-way, easement or setback.

E) Exempt Structures. Structures that are exempt from the requirements of these regulations are listed in Section 3.1.

F) Temporary Structures. A zoning permit may be issued by the Zoning Administrator for conforming and non-conforming structures that are incidental to construction projects, providing the structures shall be discontinued and removed from the property within six months from the date of the permit. Such permits may be renewed for three additional periods not to exceed six months each, upon application to the Zoning Administrator.

1) Temporary and seasonal roadside stands that sell primarily locally grown agricultural products shall be permitted if sufficient customer parking is provided off the traveled surface of the road and the stand is erected at least 20 feet back from the nearest edge of the highway right of way.

G) **Abandoned Structures.** Any structure shall be deemed abandoned when it has not been maintained for at least one (1) year. Abandoned structures must be either maintained or demolished. There is no time limit on how long a structure may remain abandoned provided it is maintained in the judgment of the Zoning Administrator. A maintained dwelling unit is habitable with intact exterior walls, intact windows, and an intact roof.

H) **Destroyed or Damaged Structures.** Within one (1) year after any structure has been destroyed or damaged by fire, or other cause, or if active work on an uncompleted construction project has not occurred in such period and the Zoning Administrator determines that the structure constitutes a health or safety hazard, the owner of the structures shall either:

1) Remove all ruins and structural materials and restore the site to a smooth grade, or

2) Reconstruct, repair or resume construction of the structure. Reconstruction of a destroyed structure shall require a zoning permit. Provided that the application for reconstruction is submitted within 1 year of the date of loss and that the new structure will be within the same footprint and of the same height as the previous structure, the Zoning Administrator shall approve the application. Otherwise, a full application and all applicable approvals will be required.

3) Any reconstruction of a destroyed nonconforming structure shall be reviewed according to Section 4.10.

SECTION 4.4 ACCESS REQUIREMENTS AND DRIVEWAYS

A) **Access to Lots without Required Frontage.** Land development may be permitted on lots that do not have frontage either on a public road, class 4 town highway, or public waters, provided that access through a permanent easement or right-of-way has been approved by the Development Review Board in accordance site plan review (Section 3.3), or subdivision review where the subdivision of land is proposed (Article 7). The Development Review Board shall approve access to lots without required frontage as long as such access from a public or private road is provided by a permanent easement or right-of-way at least 20 feet wide. The Board may consider the intended use of the property, safety, traffic, and road and site conditions in granting, conditioning or denying approval and may require a right of way in excess of 20 feet to ensure safe and orderly development.

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

C) Driveways. Driveways, as defined in Article 11, shall meet the standards listed below. Roads, access drives, or easements serving more than two (2) lots shall meet the requirements of Section 8.4 Streets and Roads.

1) An easement, right-of-way, or driveway shall not, in any 50-foot section, exceed an average grade of 10 percent (a maximum rise of 5 feet over a 50 foot stretch).
2) All driveways entering onto a public road must meet the Standards for Residential and Commercial Drives, Vermont agency of Transportation, Standard B-71.

SECTION 4.5 DEVELOPMENT ON STEEP SLOPES

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

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

SECTION 4.6 EQUAL TREATMENT OF HOUSING

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

B) Mobile and modular homes shall be treated the same as conventional homes except in a mobile home park (See Section 5.13). A non-porous pad of at least 4 inches thick shall be provided for each mobile home.

SECTION 4.7 EXCAVATION AND FILL

A) Excavation, Filling, and Grading. All excavation, filling, and grading is subject to site plan review and zoning permit requirements. However, excavation, filling, and grading may be exempt from site plan and zoning permit requirements provided that all of the following criteria are met:

1. The excavation, filling and/or grading involves less than 100 cubic yards of material.

2. The location of the proposed excavation, filling, and/or grading is not located with a floodplain, river corridor, or in an area with rare, threatened, or endangered species.

3. The excavation, filling and grading action is not proposed within the setbacks for the applicable zoning district.

4. It is the only exempt excavation, filling, or grading activity to occur within a 5-year period on an individual lot or series of lots in contiguous ownership.

Routine maintenance and landscaping of existing property that does not cause changes in runoff onto an adjacent property is exempt from this regulation.

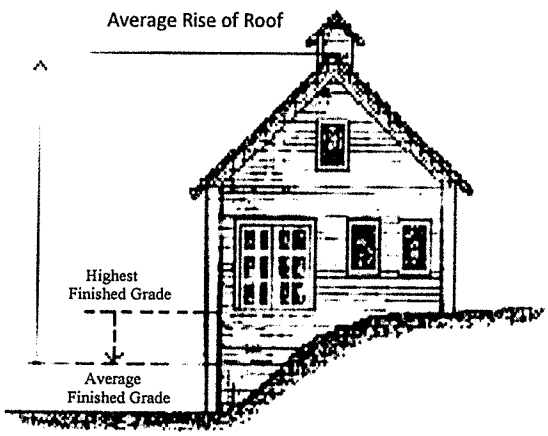
B) Materials. In all zoning districts, the dumping of stumps, wood, roots or other waste materials for fill shall be prohibited except in a State approved landfill.

SECTION 4.8 HEIGHT LIMITS

A) Except in the Commercial and Central Business District (See Section 3.3(E)), no structure shall exceed 35 feet in height above the average finished grade (ground level) as depicted in Figure 4.1.

B) Height will be measured as the vertical distance measured from the average elevation of the proposed finished grade to the highest point of the roof for flat and mansard roofs, and to the average rise of the roof between eaves and ridge for other types of roofs (See Figure 4.1).

Figure 4.1 - Height



C) Ornamental and symbolic features of buildings and structures including spires, architectural towers, cupolas, belfries and domes are exempt from the height regulations provided they are not used for human occupancy or commercial advertisement and do not take up more than 10% of the total roof area.

D) The Development Review Board, through conditional use review procedure, may permit a structure to exceed the applicable building height maximum provided that the structure does not constitute a hazard, and provided that the portion above 35 feet shall remain unoccupied except for normal maintenance.

E) The Development Review Board may, upon request or appeal, establish a maximum height limit less than 35 feet for any area of land or any structure associated with any use if such modification of the height limit will make it possible to preserve the use of a solar heating system.

SECTION 4.9 LIGHTING

A) **Applicability.** The following standards shall apply to all land development in the Village of Enosburg Falls to ensure that undesirable effects of outdoor lighting are minimized.

B) **Intent.** The residents of the Village of Enosbug Falls strongly value ability to clearly view and enjoy the night sky. It is also recognized that, while some outdoor lighting may be necessary for security and safe operation, inappropriate or poorly designed or installed lighting can create unsafe conditions and a nuisance for adjoining property owners, cause sky glow which obstructs night views of the sky, and result in the unnecessary use of electricity.

C) **General Standards.** The following general standards apply to all outdoor lighting in the Village of Enosburg Falls with the exception of temporary holiday lighting:

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

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

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

SECTION 4.10 NONCONFORMITIES (INCLUDING EXISTING SMALL LOTS)

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

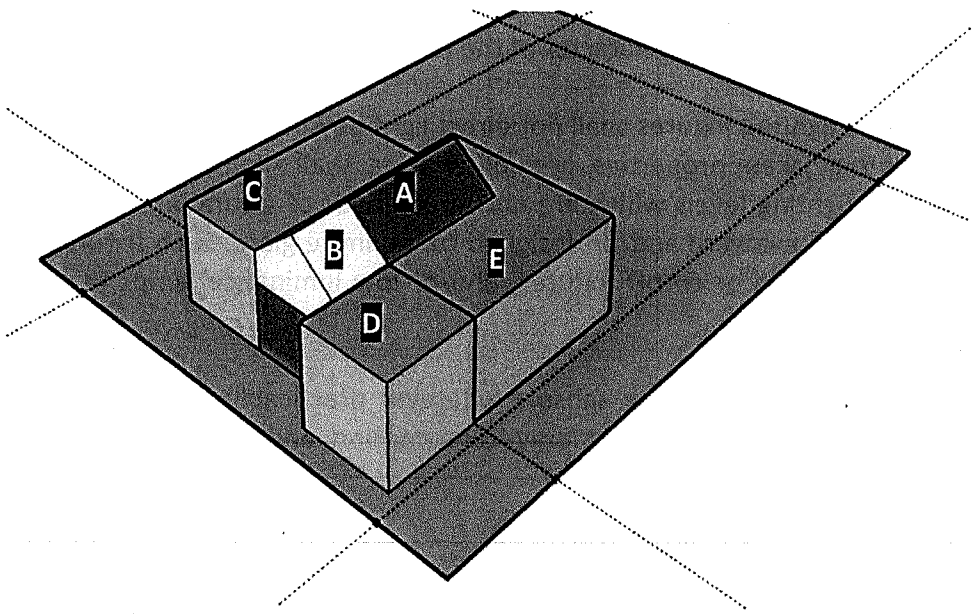
B) **Nonconforming Uses.** A pre-existing use that does not conform with the uses allowed in the district in which it is located shall be deemed a nonconforming use. Any non-conforming use may be continued indefinitely, but shall be subject to the following provisions:

1) A non-conforming use shall not be changed to another non-conforming use, expanded, moved, or enlarged. Examples of enlarged or expanded uses can include increased hours of operation, increased numbers of tables, or an increase in the size of the operation through the expansion of a conforming structure.

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

Figure 4.2 Increasing the Degree of Nonconformity

The building 'A' is the original nonconforming structure, which encroaches into the setback. Addition 'B' does not increase the degree of non-conformance because it is located within the footprint of the existing structure. Addition 'C' does not increase the degree of nonconformance because it does not extend the building into the setback area, any further than already exists, Addition 'D' increases the degree of nonconformance because it encroaches further into the setback than Building 'A'. Addition 'E' does not increase the degree of nonconformance because it is not within the setback area.



C) Nonconforming Structures. Any structure or part thereof, which is not in compliance with the provisions of these regulations concerning setback, height, size, or other structural requirements (including such things as signs, parking, and lighting), shall be deemed a non-conforming structure. Any non-conforming structure may be continued indefinitely, but shall be subject to the following provisions:

1) The Zoning Administrator may permit the reconstruction or replacement, addition to or expansion, renovation or repair, in whole or in part, of a nonconforming structure only in full conformance with these regulations (i.e. the nonconforming structure is made conforming).

2) Under conditional use review, the Development Review Board may approve the reconstruction or replacement, addition to or expansion, renovation or repair, in whole or in part, of a nonconforming structure if it does not increase the degree of

nonconformance, as shown in Figure 4.2, **and** does not exceed, in aggregate cost, 35 percent of the current assessed value for residential properties and 25 percent for industrial and commercial properties. Value shall be determined by the values on the listers card.

3) If a nonconforming structure is destroyed, it may be replaced, repaired, or reconstructed in conformance with these regulations or in the same footprint as the destroyed nonconforming structure after issuance of a zoning permit by the Zoning Administrator. Any other reconstruction or replacement, addition to or expansion, renovation or repair of a destroyed nonconforming structure shall meet the requirements of (1) and (2) above.

D) Pre-Existing Small Lots. Any lot in individual, separate, and non-affiliated ownership from surrounding properties in existence on the effective date of these regulations may be developed for the purposes permitted in the district in which it is located, even though it does not conform to minimum lot size requirements, provided such lot is not less than one-eighth acre in area with a minimum width or depth dimension of 40 feet and has adequate access complying with Section 4.4.

1) If such lot subsequently comes under common ownership with one or more contiguous lots, the lot shall be deemed merged with the contiguous lot for purposes of these and other applicable bylaws and ordinances. However, such lot shall not be deemed merged and may be subsequently conveyed if:

   a) The lots are conveyed in their preexisting, nonconforming configuration; and
   b) On the effective date of these zoning regulations, each lot had been developed with a water supply and wastewater disposal system; and
   c) At the time of transfer, each water supply and wastewater system has a wastewater and potable water supply permit from the Department of Environmental Conservation.

SECTION 4.11 JUNK AND JUNK MOTOR VEHICLES

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

SECTION 4.12 PARKING AND LOADING AREAS

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

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

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

2) Multi-family residential (more than 4 units), commercial, industrial, and institutional uses shall provide parking for the elderly and disabled in accordance with the standards of the Americans with Disabilities Act and the Vermont Health and Life Safety Code.

3) The following table sets specific off-street parking requirements for various uses:

Table 4.1 Off Street Parking Requirements
Note: Some Uses are Exempt for Parking Space Requirements in the Central Business District

USE	REQUIRED OFF STREET PARKING SPACES
Residential Uses	2 per dwelling unit plus 1 guest space for each 6 dwelling units
Lodging Establishment	1 per lodging unit plus 1 per each 2 employees
Hospitals/Residential Health Care Facilities	1 per 4 beds plus 1 per each 4 employees
Private Clubs	1 per 5 members
Churches, Schools, Public Facilities	1 per 6 seats or per 200 sq. ft. floor space, whichever is greater
Professional Services	1 per 250 sq. ft. gross floor area
Retail Establishments	1 per 200 sq. ft. gross floor area
Automobile Sales & Service	1 per each 500 sq. ft. gross floor area
Financial Institutions	1 per each 200 sq. ft. gross floor area Each drive-up lane shall have stacking room for 6 cars, & a by-pass lane shall be provided.
Restaurants, sit-down	1 per 3 seats plus 2 per 3 employee
Restaurants, drive-in	1 per 50 sq. ft. gross floor area

Warehousing and Sawmills	1 per 250 sq. ft. area devoted to office use plus 2 per each 3 non-office employees and 1 per company vehicle operating from the premises
Light Manufacturing and Manufacturing	2 per 3 employees on largest shift
Unspecified Uses	As required by the Development Review Board

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

1) Parking spaces shall be designed to provide sufficient width, length and access to accommodate the planned angle of parking. A parking space, at a minimum, shall be 9 feet in width and 18 feet in length.

2) Each off street parking space shall be provided access to a public street through a drive or aisle of not less than the dimensions provided below:

   a) Parking along a curb (0° angle) and up to 60° angle parking – a drive or aisle not less than 12 feet in width for one way traffic and 20 feet in width for two way.
   b) 90° angle parking – a drive or aisle not less than 24 feet in width for one or two way traffic.

3) For residential uses, parking areas shall not be located in setback areas, except in the front setback when located on a driveway with a permitted curb cut.

4) All parking in excess of 5 spaces shall include a perimeter landscaped strip at least 5 feet wide between and adjacent to a line defining the exterior boundary of the parking area and adjoining property lines. Where the landscaped strip adjoins a public street or pedestrian walkway, or abuts any non-residential use with a residential use, the landscaped strip shall be a minimum of 10 feet in depth and shall include a hedge, fence, wall, or other equivalent screening feature. In the Central Business District, the Development Review Board may modify this requirement based on site limitations.

5) All off-street parking areas in excess of 10 parking spaces shall provide landscaped areas equal to at least 10 percent of the total parking area. Landscaped areas shall be regularly maintained, and must be integrated into the parking lot design rather than relegated to one concentrated location or to the edges of the parking lot. In the Central Business District, the Development Review Board may modify this requirement based on site limitations.

6) Parking lots in the Central Business and Commercial Districts shall meet the building siting standards of Section 3.3 (E).

7) The Development Review Board may increase or decrease the number of parking spaces required if it is demonstrated that a different number of spaces is more appropriate for a

particular use or a particular site. Shared parking and the utilization of on-street parking are encouraged and may be required.

D) Loading and Service Areas

1) Where a proposed use will necessitate frequent or regular loading or unloading of goods, sufficient on-site service areas shall be provided. Service areas may be required for emergency vehicles, loading and unloading, waste disposal and collection, bus, taxi, or van service, and other purposes as may be necessitated by the proposed use.

2) All loading and service areas shall be located in such a manner so that parked vehicles will not block or obstruct sight visibility at intersections to or from any internal or external road or access.

3) The following off-street loading and unloading spaces shall be required (The Development Review Board may modify these requirements in the Central Business District based on site limitations):

   a) Retail Business & Services. One space of at least 250 square feet for each 3,000 square feet of floor area of part thereof.

   b) Wholesale & Industrial. One space of at least 500 square feet for each 10,000 square feet of floor area or part thereof.

   c)Bus & Truck Terminal. Sufficient space to accommodate the maximum number of buses and trucks to be stored or to be loading or unloading at the terminal at any one time.

SECTION 4.13 PERFORMANCE STANDARDS

A) No land development in any zoning district shall occur that creates dangerous, injurious, noxious or otherwise objectionable conditions which have and undue adverse effect on the reasonable use of adjoining properties.

B) The following standards shall be met by all uses in all districts:

1) **Odor.** Land development shall not emit any intensity of odor that is considered both offensive and uncharacteristic of the area;

2) **Noise.** Land development shall not emit any level of noise which is excessive at the property line and any noise or disturbance that disturbs, destroys, or endangers the comfort, quiet, repose, health, peace, or safety of others within the immediate vicinity of the noise or disturbance so as to be incompatible with the surrounding area;

3) **Dust and Smoke.** Land development shall not emit any dust, fumes, mist, smoke, other particle matter, vapor, gas, odorous substances, or any combination which endanger the health, comfort, safety, or welfare of the public or adjoining property owners, or which causes damage to property, business, or vegetation;

4) **Light and Glare.** Land development shall not emit glare or reflection which impairs the vision of motor vehicle operators, constitutes a nuisance to other property owners, or which is detrimental to public health, safety, and welfare; and

5) **Hazardous Materials.** Land development shall not present a risk as to fire, explosion, or safety that endangers the public or results in an increased burden upon municipal facilities.

SECTION 4.14 SIGNS

A) Applicability and Purpose. A sign permit, issued in conformance with this section, is required for all signs. The purpose of these regulations is to allow visual communication that is compatible with the zoning district in which the sign is located, non-distracting for motorists, and maintained in good repair. When use of a property is changed or terminated, any sign associated with such use, including frames and supports, shall be removed within 7 days. A sign permit is equivalent to a zoning permit.

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

1) Signs erected by the Town or State on public roads;

2) Non-advertising signs placed for direction or safety purposes (i.e. "restrooms", "handicapped parking"), each not to exceed 2 square feet in area;

3) One temporary auction, lawn sale, real estate for sale sign, or other similar temporary sign not to exceed 4 square feet in area. All such temporary signs shall be promptly removed when they have fulfilled their functions;

4) One temporary construction sign not exceeding 24 square feet on a property being developed, which shall be promptly removed when construction is completed;

5) One residential sign announcing the name and/or address of the occupant on the premises, not to exceed 2 square feet in area;

6) Roadside stand signs, not to exceed 2 in number and 16 square feet in combined area. One sign may remain in place during the season when the stand is not open for business;

7) Signs to be maintained for not more than four weeks announcing an event of a non-profit organization;

8) Signs placed temporarily on motor vehicles for the purposes of offering that particular motor vehicle for sale;

9) Commercial advertising of a temporary nature;

10) Signs of not more than 3 square feet in area attached to automobile service station fuel pumps;

11) Signs or flags indicating that a business is open and/or the hours of operation, provided such signs or flags are:

    a) limited to one per use (one for hours of operation and one open/closed sign, or one for both);
    b) are located on the premises of the use for which the sign is advertising;
    c) do not exceed 10 square feet for a flag and 2 square feet for a sign.

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

1) **Low and High Density Residential Districts**. One sign not to exceed 8 square feet in area and 6 feet in height shall be allowed per use. No illuminated, flashing, or signs with moving parts are permitted. No strings of lighting or pennants, or similar attention gathering media, are permitted.

2) **Central Business District**. Two signs are permitted for each primary establishment. Maximum size of any sign shall be 30 square feet or a total of 50 square feet for the two signs.

3) **Commercial and Industrial Districts.** A sign or combination of signs that do not have an area greater than 10% of the area of the side of the building facing the street or that provides the main entrance shall be permitted. No business shall have a total sign area that exceeds a total area of 100 square feet.

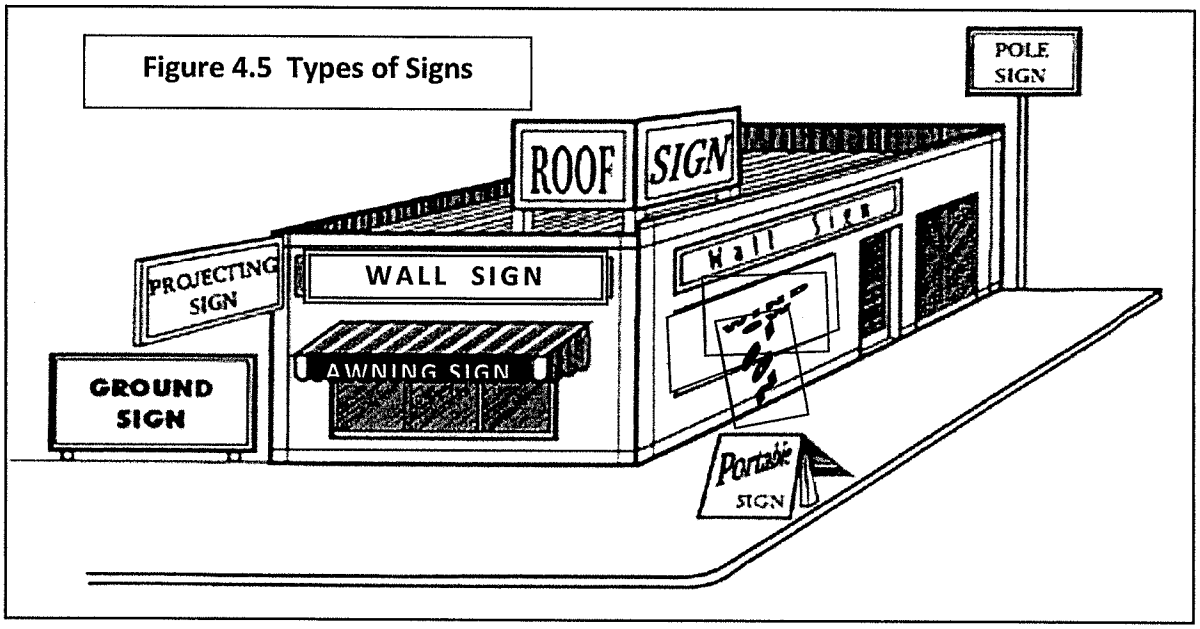
D) Computation of Sign Size. The following provisions shall be used to calculate sign size:

1) Existing signs shall be included in the computation of total sign area, except for those exempted above.

2) Signs printed back-to-back shall be counted as one sign.

3) Sign measurement shall be the area included within the extreme limits of the sign surface excluding the sign frame.

4) Where a sign consists of individual letters or symbols attached to a building, wall, or window, the area shall be considered to be the smallest rectangle encompassing all the letters or symbols, as shown below:



E) Specifications for Sign Types (as illustrated in Figure 4.5). The following types of signs may be permitted and are required to meet the specifications provided below:

1) **Awning Signs**: A sign painted on or attached to the cover of a moveable metallic frame of the hinged, roll, or folding type of awning.

   a) Such sign shall be painted on or attached flat against the surface of the awning, but not extend beyond the valance or be attached to the underside.
   b) A minimum of 7 feet above sidewalk level shall be allowed for pedestrian clearance.

2) **Freestanding (Pole) or Ground Signs**: A sign supported by structures or supports that are placed on, or anchored in the ground and are independent from any building or other structure.

a) The height of a free-standing (pole) sign shall not exceed 20 feet.
b) Free standing signs over 6 feet in height may not have more than 2 sides.

3) **Projecting Signs**: A wall-mounted sign perpendicular to the side of a building.

a) Each face shall not exceed 10 square feet.
b) Such sign shall be hung at right angles to the building and shall not project more than 5 feet out from the building.
c) Projecting signs shall have a minimum clearance of 10 feet above grade when located adjacent to or projecting over a sidewalk. If projecting over an alley or driveway, the clearance shall be at least 13 feet.

4) **Wall Signs**: A sign which is attached parallel to the exterior surface of a building or structure.

a) Such sign shall not project more than 15 inches from the building surface.
b) Wall signs shall not extend higher than the eave line or top of the parapet wall of the principal building.

5) **Window Signs**: Any sign which is painted or mounted onto a window pane, or which is hung directly inside the window with the purpose or effect of identifying any premises from the sidewalk or the street.

a) Window signs shall not exceed more than 30 percent of the window area in which they are displayed.

6) **Portable Signs or Sandwich Boards**: A sign that consists of two boards hinged at the top to create an A-frame and is placed on the ground shall comply with the Village of Enosburg Falls Board of Trustees Policy Regarding the Placement of Signs on Sidewalks/Right of Ways.

7) **Clustered Signs:** Signs that are on one signpost or physically connected to one another in some manner and include "common signs" advertising more than one business.

a) Each sign in a cluster shall be counted toward the number and area of signage allowed for the business to which it refers.
b) If the signs refer to businesses or uses conducted on a number of adjoining lots, the signpost may be located on any such lot.
c) The signpost or common sign may contain 4 square feet for each business advertised, but shall in no event be more than 40 square feet in size. The signpost may not be more than 15 feet in height.

8) **Roof Signs**: Roof signs that extend above the average roofline as shown in Figure 4.5 are specifically prohibited.

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

1) Signs shall not pose a threat to public safety or a hazard to drivers. For example:

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

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

1) The primary purpose of any sign shall be identification, and may state only the name and/or trademark of the establishment and the business or activity conducted on the premises.

2) All signs including their supports and hardware shall be of substantial and sturdy construction and shall be kept in good repair.

3) No sign may be erected on natural features such as rocks or trees, or on utility poles.

4) Signs on buildings shall not extend above the average roofline; roof signs as shown in Figure 4.5 above are specifically prohibited.

5) Signs are not permitted in side or rear setbacks.

SECTION 4.15 WASTEWATER TREATMENT AND WATER SUPPLY

A) Purpose. The purpose of this section is to protect human health and the environment, including potable water supplies, surface water, and groundwater.

B) Wastewater and Potable Water Supply Permit. All structures and uses that generate wastewater (including those that connect to the Village Sewer and/or Water Supply System) may be required to obtain a Wastewater and Potable Water Supply Permit from the Vermont Department of Environmental Conservation (DEC) in accordance with 10 V.S.A. Chapter 64

and the Wastewater System and Potable Water Supply Rules (dated September 29, 2007 or as revised from time to time by the DEC). Applicants should contact the Agency of Natural Resources District Permit Specialist to determine if such a permit it required. If, according to the DEC, a Wastewater System and Potable Water Supply Permit is not required, the property owner/applicant shall provide written proof from the DEC of such to the Zoning Administrator. Where a Wastewater and Potable Water Supply Permit is required, initiation of construction under a zoning permit issued in accordance with the Enosburg Falls Land Use and Development Regulations shall be prohibited unless and until a Wastewater and Potable Waters Supply Permit is issued.

C) **Municipal Sewer and Water Allocation**. All structures and uses that will connect to the Municipal Sewer Treatment System and/or the Municipal Water Supply System must obtain allocation approval in accordance with the Village Sewer Use Ordinance and the Village Water System Ordinance prior the issuance of a zoning permit.

ARTICLE 5. SPECIFIC USE STANDARDS

SECTION 5.1 APPLICABILITY

A) The following standards shall apply to the specified uses in all zoning districts in which such uses are allowed (see Table 2.1). Specified uses may be subject to site plan review or conditional use review. If there is conflict between a standard in this section and a standard in another part of these regulations, the more restrictive standard shall apply.

SECTION 5.2 ACCESSORY DWELLINGS

A) Applicability. One accessory dwelling to a single family dwelling may be allowed as a permitted use of property per 24 V.S.A. 4412. An accessory dwelling is an efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provision for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

1) The property has sufficient wastewater capacity.

2) The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling.

3) Applicable setback, coverage, and parking requirements specified in the regulations are met.

4) The owner lives in either the single family dwelling or the accessory apartment.

B) Permit Requirement. A zoning permit issued for an accessory dwelling shall clearly state that the dwelling (s) is permitted only as an accessory to the principal residential use of the property and as such shall be retained in common ownership. Such a dwelling unit may be subdivided and/or converted for conveyance or use as a principle dwelling only if it is found to meet all current municipal regulations applying to a single (or two) family dwelling, including all density and dimensional requirements for the district in which it is located. All applicable municipal permits and approvals shall be required prior to the subdivision, conversion, or conveyance as a principal dwelling.

SECTION 5.3 ADAPTIVE REUSE OF HISTORIC STRUCTURES

A) Purpose. Adaptive reuse is intended to encourage the continued viability, reuse, restoration and rehabilitation of historically, culturally or architecturally significant structures within the Village of Enosburg Falls. The adaptive reuse of such a structure is allowed in certain zoning districts as provided in Table 2.1 and is subject to conditional use review under Section 3.2, site plan review under Section 3.3, and the standards below.

B) **Applicability**. Structures eligible for adaptive reuse are limited to those which:

1) Are no less than 50 years old and are listed in, or eligible for listing in, the Vermont Historic Sites and Structures Survey for the Village of Enosburg Falls; or

2) Have historical, cultural, or architectural significance to the Village, as determined by the Development Review Board upon application. The Development Review Board may make a determination regarding the eligibility of a particular structure for adaptive reuse in consultation with the Vermont Division of Historic Preservation or a qualified architect or architectural historian. A proposed business may be owned by a person other than the property owner.

C) **Application Requirements**. In addition to application requirements for conditional use review and site plan review in Article 3, the application for an adaptive reuse shall also include following:

1) Elevation drawings showing the existing view and proposed renovations for all walls that are proposed to have alterations, including new or altered windows or doors.

2) Written documentation of the structure's significance (particularly historical significance) prepared by a qualified architect, architectural historian, or the Vermont Division of Historic Preservation.

D) **Uses**. In addition to any permitted and conditional use allowed within the zoning district in which the structure is located, the following uses may be allowed in structures eligible for adaptive reuse, as determined by the Development Review Board, regardless of the zoning district in which the structure is located:

1) Accessory dwelling;

2) Single and multi-family dwelling, at a density not more than the density (units/acre) required for the district in which the building is located; except as allowed for planned unit developments under Article 6

3) Home occupations and home industries (see Section 5.11);

4) Professional services having a total floor area of not more than 3,500 sq. ft.;

5) Restaurant;

6) Bed and breakfast or lodging facility with no more than 10 guest rooms;

7) Cultural facility (e.g., library, museum, theater, performance space);

8) Community center or private club;

9) Retail store with a total display and sale area of not more than 3,500 sq. ft.;

10) Health clinic;

11) Veterinary clinic;

12) Brewery/winery/distillery

13) Permitted and conditional use allowed within the zoning district in which the structure is located;

14) Other similar uses; or

15) A combination of the above uses.

E) Review Standards. Adaptive reuse of historic structures shall be reviewed using the following standards:

1) Conditional use review requirements under Section 3.2.

2) Site plan review requirements under Section 3.3

3) Any rehabilitation or restoration associated with an adaptive reuse shall not significantly alter the façade or historic character of the structure. Any proposed exterior renovations shall conform to guidelines set forth in the most recent edition of The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings [36 CFR 67](http://www.nps.gov/history/hps/TPS/tax/rhb/).

4) If the structure intended for adaptive reuse is accessory to a principal structure, the accessory structure shall be retained in common ownership with the principle structure; however the proposed business may be separately owned by a person other than the property owner.

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

SECTION 5.4 GAS STATIONS AND AUTOMOBILE REPAIR ESTABLISHMENTS

A) Because of the nature of the materials stored and sold by gas stations and automobile repair establishments and the nature of the traffic patterns associated with them, these uses shall comply with the following additional requirements:

1) A gas station or automobile repair establishment lot shall not be located within 300 feet of any lot occupied by a school, hospital, library, or religious institution.

2) Pumps, lubricating and other service devices shall be located at least 50 feet from the edge of the traveled portion of the roadway and side and rear lot lines.

3) All fuel and oil shall be stored at least 35 feet from any property line.

4) All automobile parts and dismantled vehicles shall be stored within a building. However, outdoor storage is possible provided that screening from public view is provided.

5) There shall be no more than two access driveways from the road.

6) A curbed and landscaped area shall be maintained at least five feet in depth along all road frontage not used as driveway.

SECTION 5.5 CAMPING VEHICLES AND CAMPGROUNDS

A) Camping Vehicles. Any camping vehicle as defined in Article 11 used for living quarters and sited so it is not readily movable shall be deemed a structure and a dwelling and shall be subject to all zoning regulations applicable to dwellings.

1) A camping vehicle may be occupied a property of its owner provided the vehicle meets all district setback requirements and the period of occupancy does not exceed 45 days in a 6 month period.

2) Owners of property where camping vehicles are located are responsible for the sanitary disposal of wastewater in accordance with Section 4.15 of these regulations.

3) There shall only be one camping vehicle per lot.

B) Campgrounds. New campgrounds (see definition Article 11) and any addition or alteration to an existing campground are subject to conditional use review and the following regulations:

1) Campgrounds shall provide for lavatory, shower and toilet facilities, and individual camping vehicle or tent spaces. All campgrounds shall comply with the regulations in Section 4.15 – Wastewater Treatment and Water Supply.

2) A strip of land at least 25 feet wide shall be maintained as a landscaped buffer abutting all campground property lines. No camping vehicle, tent, or service building shall be

located in this buffer area. The Development Review Board may reduce or eliminate this landscaped buffer provisions if such a modification or waiver will make it possible to preserve a scenic view from the campground, providing that privacy for adjacent property owners can be maintained.

3) Collector roads within the campground shall meet the standards in Table 5.1.

Table 5.1 – Campground Roads		
	One-Way Roads	Two-Way Roads
Right-of-way Width	18 feet	33 feet
Gravel Depth	12 inches	12 inches
Gravel Width	10 feet	20 feet

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

SECTION 5.6 CHILD CARE HOMES AND CHILD CARE FACILITIES

A) A "child care home" as used in these regulations means a home where the owner or operator is licensed or registered by the State to provide child care on a regular basis in the caregiver's own residence for not more than 6 full time and 4 part time children (as defined in 33 V.S.A. §4902 (A)) at any one time. A child care home shall be considered to constitute a permitted single family residential use of property.

B) A child care home that does not meet the provisions of this section shall be considered a childcare facility and is subject to all applicable permits and approvals required by these regulations (see Table 2.1).

SECTION 5.7 EARTH RESOURCE EXTRACTION

A) Applicability. No new earth resource extraction, quarrying, or processing operation, land alteration, excavation, or fill operation that would cause a change in the rate or direction of drainage, mineral or gas exploration or drilling, expansion of an existing operation, or a resumption of an inactive operation shall be permitted without approval from the Development Review Board.

B) Application. In addition to the conditional use and site plan application requirements, applicants shall provide the following information.

1) A landscaping plan to screen noise, dust, and visual effects of the operation from adjoining properties;

2) An erosion and sediment control plan;

3) A site rehabilitation plan, including schedule of implementation;

4) A description of the proposed methods of operation including operating hours and the duration of operation, types and quantity of equipment and trucks to be used, location and method of spoil disposal, and a transportation plan addressing both on- and off-site trucking activities;

5) Any other information the board requires to determine whether the proposed operation conforms to the standards of these regulations.

C) Specific Standards. In considering an application under this section, the Development Review Board shall consider the following specific standards:

1) Adjoining land areas should be protected from undue adverse impacts resulting from dust, noise, or air pollution. There shall be a minimum setback of 200 feet from adjoining properties for all extraction or processing activities, except for offices and accessory uses.

2) Within the required setback areas, the natural vegetation shall be retained, and supplementary planting may be required in order to buffer impacts from the operation.

3) An erosion and sedimentation control plan in compliance with Section 8.6 shall be submitted.

4) No operation shall be permitted which may result in the pollution of surface or ground water through by-products of the proposed operation.

5) Suitable fencing or other appropriate safety precautions may be required around extraction sites, sedimentation ponds, and spoil or equipment storage areas.

6) Proposed operations shall not create unusual or unreasonable traffic hazards or the need for special public improvements or maintenance of public streets or bridges which would place an unreasonable additional financial burden on the Village.

7) Explosives may be used only per a plan approved under this section and only after it has been demonstrated by the applicant that the use of such materials will not have an adverse impact on adjoining properties.

8) A site rehabilitation plan shall be submitted to ensure that the entire site, at the conclusion of extraction activities, is restored to a condition that is free of hazards to the public and may be used in the future. In considering a site rehabilitation plan, the Development Review Board shall consider the following specific standards:

   a) Suitability of the site following rehabilitation for uses that are permissible under the applicable zoning district;

b) Compatibility of the rehabilitated site with the character of the natural landscape in the vicinity of the site;
c) The top 12 inches of topsoil on all disturbed areas shall be stockpiled for use in rehabilitating the site;
d) Implementation of rehabilitation activities shall be on a continuing basis, commencing as soon as practical where extraction activities have been completed;
e) Stormwater runoff and erosion/sedimentation following rehabilitation shall not exceed that which existed prior to development; and
f) Bonding or surety shall be at a level to cover the costs of rehabilitating all disturbed areas and be of an amount approved by the Village Trustees

SECTION 5.8 GARAGE, PORCH, AND LAWN SALES

A) Purpose. The purpose of these standards is to ensure the maintenance of the residential character of neighborhoods while permitting homeowners to take advantage of this traditional residential activity.

B) Exemptions. Garage/lawn/porch sales that do not last for more than three (3) consecutive days nor more than three (3) times a year do not require a zoning permit. Signs for garage/lawn/porch sales shall be considered temporary signs regulated according to Section 4.14(B)(3).

C) Any garage/lawn/porch sale that exceeds the standards set in this section shall be considered a home industry and shall be subject to Section 5.11.

SECTION 5.9 GROUP HOMES AND COMMUNITY CARE HOMES

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

B) A community care home to be operated under state licensing or registration, serving nine or more who have a handicap or disability as defined in 9 V.S.A. §4501 or otherwise does not apply to Section 5.9(A) above, shall be reviewed as a community care facility according to Table 2.1.

SECTION 5.10 HAZARDOUS MATERIALS USES

A) Applicability. Any proposed use or change in use that by its design or nature is intended for the manufacture, processing, reprocessing, packaging, or storage of hazardous materials shall be a conditional use permitted only upon review by the Development Review Board.

Applications will be reviewed according to this section whenever the Zoning Administrator or the Development Review Board determines that hazardous materials as defined in Article 11 are involved. A gas station shall not be considered a hazardous materials use.

B) Supplemental Information. In addition to conditional use application requirements, the applicant shall provide the following information unless a waiver is granted through written request to the Development Review Board:

1) Identification of all hazardous materials to be generated or accepted by the facility;

2) Complete description of plant operations, including all treatment processes and technologies to be applied;

3) Description of procedures to be used in case of a spill or emergency at the facility; and

4) Any other information deemed necessary by the Development Review Board including expert testimony and documentation by independent sources at the applicants' expense.

C) Decisions. Upon hearing the application the Development Review Board may:

1) Determine an excessive hazard potential to exist and deny the application;

2) Limit the scope of activity with regard to the size of structures, quantities and types of materials, place of storage of materials, handling of materials, routes of travel, hours of operation; and/or

3) Require special safeguards, warning systems, fire control systems, and other safety regulations be implemented; and/or

4) Provide for continuous monitoring, reporting, and regulation by the Zoning Administrator and plant manager.

SECTION 5.11 HOME BASED BUSINESSES (INCLUDING HOME OCCUPATIONS AND HOME INDUSTRIES)

A) Home Occupations. No provision of this bylaw shall infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which is customary in residential areas and which does not change the character of the area.

1) A home occupation is permitted as an accessory use for all residential uses.

2) In order to ensure that a home occupation will not change the character of the residential area, it will comply with all of the following standards:

a) The home occupation shall be clearly incidental and secondary to the residential use of the property, and shall be conducted wholly within the principal and accessory structures, and shall occupy less than 25% of the entire floor area of such structures.
b) The home occupation shall be carried on by residents of the dwelling unit. No more than one additional employee who is not a resident of the dwelling unit is permitted on site at one time.
c) All business activities or transactions associated with the home occupation shall be carried on entirely within the dwelling unit and/or accessory structures. Outside storage, including the storage of motor vehicles, shall not be permitted.
d) No traffic shall be generated which would be uncharacteristic of the neighborhood.
e) New parking required for the home occupation shall be provided off-street and shall not be located in front yards.
f) No objectionable noise, vibration, odor, smoke, dust, electrical disturbance, heat, or glare shall be produced by the home occupation.
g) Exterior displays or signs other than those normally permitted in the district shall be prohibited.

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

1) A home industry shall be a conditional use. In order to receive a conditional use permit, the home industry must comply with the requirements of Section 3.2 for conditional uses, as well as the requirements below.

2) The home industry shall be carried on within the principal dwelling unit or accessory structures, and shall occupy less than 50% of the combined area of all structures on the lot.

3) The home industry shall be carried on by residents of the principal dwelling unit. No more than two on-premise employees who are not residents of the dwelling unit shall be permitted on site at one time.

4) The business shall not necessitate any change in the outside appearance of the dwelling unit other than the addition of one sign as permitted in Section 4.14.

5) No traffic shall be generated in greater volumes than would be normally expected in the neighborhood.

6) New parking required for the home industry shall be provided off-street, and shall not be located in front yards.

7) No objectionable noise, vibration, odor, smoke, dust, electrical disturbance, heat, or glare shall be produced by the home industry.

8) Exterior storage of materials is prohibited. This standard shall not apply to a home industry that involves auto repair. A home industry that involves auto repair shall be allowed to have up to 3 customer-owned vehicles located outside of a structure at any one time.

SECTION 5.12 MIXED USES

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

1) Each of the proposed uses is otherwise allowed as a permitted or conditional use in the district in which the mixed use is proposed.

2) The combined uses meet all applicable standards for the district in which the mixed use is proposed, including minimum setbacks and frontage, and minimum lot size (unless such standards are modified as part of a planned unit development).

3) The mixed use meets all applicable general regulations and specific use standards contained in Articles 4 and 5.

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

SECTION 5.13 MOBILE HOME PARKS

A) Applicability. Mobile home parks are subject to the requirements of this section and State Law. The State definition of a Mobile Home Park shall be applicable for this section; see Article 11.

B) Permits and Approvals.

1) Replacement of an existing mobile home in an existing mobile home park, where the existing mobile home meets the standards in (C) below with another mobile home shall require a zoning permit from the Zoning Administrator.
2) Replacement of an existing mobile home in an existing mobile home park that meets the standards in (C) below, with a larger mobile home that would not meet the standards in (C) below shall require site plan approval by the Development Review Board. In granting such approval the Board shall not modify the mobile home lot line setback standards by more than 50%.
3) New mobile home parks, and any addition or alteration to an existing mobile home park, shall be reviewed as a Planned Unit Development by the Development Review Board and shall be subject to the standards in this section in addition to the Planned Unit Development standards in Article 6, conditional use and site plan standards in Article 3,

and all other applicable provisions of this regulation. "Addition" shall mean modifying an existing mobile home park by increasing the number of sites or mobile homes in the park. Alterations involving the erection, construction, or placement of accessory structures shall not be required to obtain conditional use approval by the Development Review Board; however, a building permit will be required for all accessory structures.

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

1) The minimum mobile home lot size shall be 8,000 square feet.

2) Each mobile home lot shall have at least 50 feet of frontage on a mobile home park road.

3) Minimum side and rear yards of 10 feet, and a minimum setback from the access road of 25 feet are required for mobile homes and accessory structures on each lot. All structures shall maintain a 100-foot setback from shorelines, streams, or riverbanks.

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

1) A mobile home park shall have a contiguous area of not less than 5 acres or more than 50 acres.

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

3) A minimum of two parking spaces for each mobile home lot shall be provided. Each parking space shall be at least 9 feet wide by 20 feet long.

4) All mobile homes shall be installed per the HUD Manufactured Home Installation Program per 24 CFR 3285 and 24 CFR 3286.

5) Sewage disposal, water supply, and garbage facilities shall comply with Section 4.15.

6) All electric, telephone, and other utility lines shall be underground.

7) Each mobile home park shall provide at least 10% of its total area for open space and recreational purposes for the use of park residents. The Development Review Board, as a condition of approval, may establish such conditions as to the ownership, use, and

maintenance of such land as it deems necessary to assure the preservation of such lands for their intended purpose.

8) Individual tenants of the mobile home park may erect, construct, or place no more than 2 accessory structures on a mobile home lot, provided that such structures combined do not exceed 60% of the floor area of the mobile home. Individual building permits shall be required for each such structure.

SECTION 5.14 PUBLIC FACILITIES

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

1) 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 5.15 SALVAGE YARDS

A) New or expanded commercial salvage yards may be permitted within designated zoning districts subject to conditional use review and site plan review under Article 4 and the following specific use standards:

1) **Lot Size.** A minimum of ten (10) contiguous acres shall be required. No more than 5 acres shall be used for the salvage yard use.

2) **Setbacks.** Salvage yards shall be set back at least one hundred (100) feet from all property lines, road rights-of-way, surface waters, and wetlands.

3) **Landscaping.** Salvage yards shall be screened year-round from public view; additional landscaping, fencing or other forms of screening may be required as appropriate.

Salvage yards shall be secured as necessary to protect public health, safety, welfare, and neighboring properties.

4) **Lighting.** Exterior lighting shall be the minimum required for security and safe operation.

5) **Performance Standards.** All performance standards under Section 4.13 shall apply.

6) **Storage.** The on-site storage of materials shall not have an undue adverse effect upon surface, ground or drinking water supplies in the vicinity of the yard.

7) **Conditions.** Conditions and limitations may be imposed with regard to traffic generated, hours of operation, and the on-site storage of hazardous materials in order to protect neighboring properties, public infrastructure including roads, and the character of the area in which the yard is located.

8) **Restoration.** All materials shall be removed from the site within twelve (12) months of the cessation or abandonment of operations; and the site shall be restored to a safe, usable condition. Site restoration, including the clean up and disposal of hazardous materials, shall be subject to all applicable state and federal regulations. A site restoration plan shall be required.

9) **Certificate of Approved Location.** All salvage yards are subject to review and approval by the Enosburg Falls Village Trustees under separate state statute (24 V.S.A., Chapter 61, Subchapter 10).

SECTION 5.16 TELECOMMUNICATIONS FACILITIES

A) Authority and Purpose. New or expanded telecommunications facilities, including but not limited to towers and accessory structures are subject to conditional use review and the provisions of this section. In conformance with 24 V.S.A. § 4412(9), the Development Review Board may permit new or expanded telecommunications facilities if the board finds that the facility will impose not more than a de-minimus impact on the conditional use standards in Section 3.2 and the criteria (E) below.

B) Exemptions.

1) Antennae with an aggregate area of not more than eight (8) square feet on the largest face and which are on masts that extend not more than twelve (12) feet above the specific roof area to which they are attached and are not located on historic landmarks and structures are exempt from these regulations. Amateur radio, citizens band radio, AM or FM radio, or broadcast television service towers that exceed this requirement but that do not exceed 100 feet in height are exempt from the provisions of this section, but require a zoning permit as an accessory structure.

2) No permit shall be required for a Wireless Telecommunication Facility that is used exclusively for municipal radio dispatch service or emergency radio dispatch service and which does not exceed 100 feet in height.

3) The following requires a Certificate of Public Good from the Department of Public Service under Act 248, which preempts these regulations:

   a) Placement of wireless communications facilities on electric transmission or generation facilities; and
   b) Single application to construct or install 3 or more telecommunications facilities, each at least 50 feet above ground level, within 3 years as part of a network.

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

1) A vicinity map showing the entire vicinity within a 2 mile radius of the Facility, including the location of all existing and proposed towers, topography, public and private roads and driveways, buildings and structures, utilities, water bodies, wetlands, 50 foot contour lines, landscape features, historic sites and significant wildlife habitats. It shall indicate the property lines of the proposed Facility site parcel and all easements or rights-of- way needed for access from a public way to the Facility.

2) Elevations and proposed site plans of the Facility showing all facades and indicating all exterior materials and colors of towers, buildings and equipment, as well as all landscaping, utility wires, guy wires and screening. (All plans shall be drawn at a minimum scale of 1 inch = 50 feet.)

3) In the case of a site that is forested, the approximate average elevation of the existing vegetation within 50 feet of any tower base.

4) A report from a qualified engineer that:

   a) Describes any tower's design and elevation.
   b) Documents the elevation above grade for all proposed mounting positions for antennas to be mounted on a tower and the minimum distances between antennas.
   c) Describes a tower's capacity, including the number, elevation and types of antennas that the tower is proposed to accommodate.
   d) In the case of new Facilities, demonstrates that existing towers and structures within five miles of the site cannot reasonably be modified to provide adequate coverage and adequate capacity to the community.
   e) Describes potential changes or additions to existing structures or towers that would enable them to provide adequate coverage.

f) Describes the output frequency, number of channels and the power output per channel for each antenna. In the alternative, a coverage map may be provided.
g) Demonstrates the Facility's compliance with the standards set forth in this bylaw or other applicable standards.
h) Provides proof that at the proposed Facility site the applicant will be in compliance with all FCC regulations, standards and requirements, and includes a statement that the applicant commits to continue to maintain compliance with all FCC regulations, standards and requirements for radio frequency radiation (RFR).
i) Includes such other information as determined by the Development Review Board to evaluate the application.

5) A letter of intent committing the Facility owner and its successors to permit shared use of any tower if the additional users agree to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC regulations, standards and requirements and the provisions of this Bylaw and all other applicable laws.

6) In the case of an application for additional antennas or other equipment to be installed on an existing Facility, a copy of the executed contract with the owner of the existing structure.

7) To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the Facility, or a written statement by the applicant that an EA is not required for the facility.

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

1) The Facility will not be built on speculation. If the applicant is not a Wireless Telecommunication Service Provider, the applicant shall provide a copy of a contract or letter of intent showing that a Wireless Telecommunication Service Provider is legally obligated to locate a Wireless Telecommunication Facility on lands owned or leased by the applicant.

2) The Facility will not project more than 20 feet above the average elevation of the tree line measured within 50 feet of the highest vertical element of the Wireless Telecommunication Facility, unless the proposed elevation is reasonably necessary to provide adequate Wireless Telecommunication Service capacity or coverage or to facilitate installation and operation of facilities.

3) The minimum distance from the base of any tower to any property line is not less than 100% the total elevation of the tower, including antenna or equipment.

4) The Facility will not be illuminated by artificial means and will not display any lights or signs except for such lights and signs as required by Federal Aviation Administration, federal or state law, or this bylaw.

5) The Development Review Board may require the applicant to provide a bond, or other form of financial guarantee acceptable to the Development Review Board, to cover the cost of removal of the Facility, should the Facility be abandoned or cease to operate.

6) The applicant shall demonstrate that the facility will be in compliance with all FCC standards and requirements regarding radio frequency radiation. The owner of a Wireless Telecommunication Facility shall, on a yearly basis, file a certificate showing that it is in compliance with all FCC standards and requirements regarding radio frequency radiation, and that adequate insurance has been obtained for the Facility. Failure to file a certificate within the timeframe requested by the Development Review Board, shall mean that the Facility has been abandoned.

7) The Facility will be properly identified with appropriate warnings indicating the presence of radio frequency radiation.

8) The proposed equipment is installed on an existing Wireless Telecommunication Facility, unless it is demonstrated by the applicant that such co-location is not structurally or spatially possible.

9) The Facility provides reasonable opportunity for the installation and operation of other telecommunications equipment.

10) Unless otherwise approved by the Development Review Board, an abandoned or unused Wireless Telecommunication Facility shall be removed within 2 years of abandonment or cessation of use. The applicant may apply to the Development Review Board for an extension for removal. If the Facility is not removed, or an extension granted, within 2 years of abandonment or cessation of use, the Development Review Board may cause the Facility to be removed. The costs of removal shall be assessed against the Facility owner. Unused portions of a Wireless Telecommunication Facility shall be removed within 1 year of the time that such portion is no longer used. Replacement of portions of a Facility previously removed shall require a new permit.

E) **Additional Conditional Use Criteria**. In addition to the conditional use Standards in Section 3.2 and the construction standards in (E) above, the Development Review Board shall approve an application for a Wireless Telecommunications Facility when it finds that the application does not impose more than a de minimus impact on the following criteria:

1) The Facility will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.

2) The Facility will not have an undue adverse aesthetic impact. In determining this, the Development Review Board shall consider the following factors:

   a) The results of the balloon test, if conducted.
   b) The extent to which the proposed towers and equipment have been designed to blend into the surrounding environment through the use of screening, camouflage, architectural design, and/or imitation of natural features.
   c) The extent to which access roads have been designed to follow the contour of the land and will be constructed within forest or forest fringe areas and not open fields.
   d) The duration and frequency with which the Facility will be viewed on a public highway or from public property.
   e) The degree to which the Facility will be screened by existing vegetation, topography, or existing structures.
   f) Background features in the line of sight to the Facility that obscure or make the Facility more conspicuous.
   g) The distance of the Facility from the point of view and the proportion of the facility that is above the skyline.
   h) The sensitivity or unique value of a particular view affected by the Facility.
   i) Any significant disruption of a viewshed that provides context to an important historic or scenic resource.

3) The Facility will not generate undue noise.

SECTION 5.17 WIND ENERGY CONVERSION SYSTEMS

A) Purpose. The purpose of this section is to promote the safe, effective, and efficient use of wind energy conversion systems (WECs). All wind driven conversion or power generating facilities, windmills, and wind turbines, consisting of wind turbine generators, transmission lines and accessory buildings and structures, that **will not** be connected to any public utility power grid shall require a conditional use permit in accordance with this Section. WECs that will connect to a public utility power grid require a Certificate of Public Good from the Vermont Public Service Board under Act 248; no zoning permit or approval under these regulations is required.

B) Application Requirements. In addition to the conditional use application requirements in Table 2.1, the application shall include a plot plan showing proposed location of all conversion system poles or towers, guy lines where required, guy line anchor bases and their distance from all property lines.

C) Design Certification. The safety of the design shall be certified by a professional engineer or by an authorized factory representative.

D) **Abandonment**. If the Zoning Administrator determines that any WEC has been abandoned for more than 12 months, or has become a hazard, they may revoke its permit and may require that it be removed by the owner.

E) **Review Standards**. In addition to the conditional use standards in Section 3.2, WECs shall conform to the following specific standards:

1) **Setback.** No part of the WEC shall be located within or above any required front, side, or rear setback area of the district in which it is located. The WEC shall be located at a distance of at least 1.25 times the height of the facility (measured form the base to the highest reach of the blade) from any structure occupied by humans and from all property lines.

2) **Height.** The minimum height of the lowest position of the WEC blade shall be at least thirty (30) feet above the ground and forty (40) feet above the highest structure or tree within a two hundred and fifty (250) foot radius.

3) **Aesthetics**. The WEC shall be designed and placed in such a manner to minimize to the greatest extent feasible, all adverse visual impacts on neighboring areas. The colors and surface treatment of the WEC and supporting structures shall to the greatest extent feasible, minimize disruption of the natural characteristics of the site.

4) **Access.** To ensure safety, all towers or poles must be unclimbable by design for the first twelve (12) feet or be enclosed by a six (6) foot fence and locked gate at the perimeter of the base.

5) **Noise.** The WEC shall not exceed 45 dBA, as measured at the lot line.

ARTICLE 6. PLANNED UNIT DEVELOPMENT

SECTION 6.1. PURPOSE

A) Purpose. The purpose of a planned unit developments (PUDs) is to encourage flexibility in design and unified treatment of a development site; to promote efficient use of land; to facilitate the efficient and economical provision of streets and utilities; and to conserve the natural resources and scenic qualities of the village.

B) Modifications. The Development Review Board may modify the requirements for the provision of any or all improvements and requirements, if in its judgment they are not necessary for the protection of public health, safety, and general welfare or are inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the PUD. The Development Review Board may impose appropriate and reasonable conditions to address the objectives of the modified requirements. No such modification may be granted if it would have the effect of nullifying the intent and purpose of these regulations or the Act.

SECTION 6.2 APPLICATION & REVIEW PROCEDURES

A) An application for PUD approval shall be reviewed as a major subdivision regardless of whether or not the PUD involves the subdivision on land.. Approval of a PUD that involves the development of one (1) or more use subject to conditional use review or site plan review shall not exempt the proposed development from the requirements of those types of review (see Article 3). In addition to the application requirements required for subdivision review, applications for PUDs shall include the following:

1) A brief summary of the project and how it meets the standards in this section;

2) A statement setting forth the nature of all proposed modifications of this bylaw and the proposed standards and criteria which the applicant proposes for the development, including standards for the spacing of buildings, sizes of lots, and open space;

3) Articles of association, bylaws, or declarations of condominium for those developments that will provide common open space, recreation, roads, parking areas, community water & sewer systems, or other facilities used, owned, or maintained in common; and

4) Plans for the permanent maintenance and/or management of open space areas included within the development.

SECTION 6.3 GENERAL STANDARDS.

A) The following standards shall be met in order for the Development Review Board to approve the PUD application:

1) **Town Plan.** The project shall be consistent with the Town and Village of Enosburgh, Vermont Comprehensive Municipal Plan.

2) **Uses.**

   a) The Development Review Board may allow for a greater concentration or intensity of land use within some section or sections of the PUD than in others provided there is an offset by a lesser concentration in another section or sections or an appropriate reservation of open space on the remaining land in accordance with the standards in this Article.
   b) PUDs may include residential uses, nonresidential uses, public and private educational facilities, and industrial buildings and uses. Principal and accessory uses in the PUD shall not differ from those uses allowed within the zoning district where the project is located. Mixed uses shall be so arranged and buffered as to ensure visual and acoustical privacy to residents in the development.

3) **Density.**

   a) Except as provided in Section 6.5 Density Bonus below, in any PUD, the number of units shall not exceed the number that could be permitted, in the Development Review Board's judgment, if the land were subdivided into lots in conformance with the applicable district requirements of this bylaw.
   b) The area of any pond, lake, or stream shall be included as any part of the area required for a PUD or as part of the base for any density determination only to a maximum of 10% of the area of the parcel under consideration.

4) **Natural Resources and Open Space.**

   a) The PUD shall be an effective and unified treatment of the project site, and make appropriate provision for preservation of streams, stream banks, visual and physical access to the Missisquoi River, slopes greater than 25%, wetlands, soils, historic sites, natural areas, wildlife habitat, flood plain, and views.
   b) The PUD shall meet the requirements for the protection of open space in Section 6.4.

5) **Planning and Design Standards.** The project will meet the Planning and Design Standards in Article 8.

6) **Phasing.** The development shall be proposed over a reasonable period of time in order that adequate municipal facilities and services may be provided. The Development Review Board may require that the project be developed in phases.

SECTION 6.4 OPEN SPACE

A) The amount of undeveloped open land shall not be less than 25% of the total project area. Land set aside for park, recreation, open space, agriculture, forestry, wildlife habitat, natural areas, aquifer protection areas, stream bank protection, or municipal purposes shall be in a location, size, and shape approved by the Development Review Board. Open space within a PUD shall meet the following requirements:

1) The open land shall provide for the protection of resources subject to standards in Article 8 and Article 9. This includes standards for the protection of agricultural land, rare, threatened and endangered species, historic structures, rural road corridors and scenic views, the special flood hazard area, and river corridors.

2) The location shape, size, and character of the open land shall be suitable for its intended use.

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

4) Open land shall be protected for its intended use by granting of conservation restriction or be conveyed in fee simple to one of the following as approved by the Development Review Board:

   a) The village, if it agrees;
   b) A non-profit corporation;
   c) Another suitable party provided there are appropriate conservation restrictions placed on the land.

5) Open land shall be located so as to conform with and extend existing and potential common open land on adjacent parcels.

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

7) Any land within the following categories shall not be used in the computation or designation of land which is to be left undeveloped or open for purpose of PUD:

   a) sewage disposal areas;
   b) surface areas of streams, rivers, ponds, or lakes greater than 10% of the original parcel;
   c) any portion of a building lot;
   d) utility easements;

e) streets, roads, driveways, parking areas, or rights-of-way; and
f) water supply areas.

SECTION 6.5 DENSITY BONUS

A) The Development Review Board is authorized to grant a density bonus to proposed PUDs, allowing the number of residential units to be increased by up to a maximum of 25 percent of the maximum density of the PUD. The Development Review Board may decide the amount of the density bonus based upon the features of the specific site, and will provide their rationale in the findings of fact for the approval of the PUD. A density bonus may be granted if:

1) At least 25 percent of the total project area is legally protected as open space for agricultural or recreational use, *or;*

2) At least 25 percent of the housing units in the project are designated as perpetual affordable housing through a legally binding agreement or covenant, *or;*

3) At least 50 percent of the housing units in the project are designated as perpetual senior housing (per HUD definition) through a legally binding agreement or covenant.

ARTICLE 7. SUBDIVISION REVIEW

SECTION 7.1 APPLICABILITY

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

B) For the purposes of these regulations, subdivisions shall be classified as the following:

1) **Boundary Line Adjustments**. A boundary line adjustment does not create any additional lots, does not make conforming lots non-conforming lots, and does not increase the nonconformance of any existing non-conforming lot or structure. Any Boundary line adjustment not meeting all these criteria shall be reviewed as a minor subdivision.

2) **Minor Subdivisions.** A minor subdivision shall meet the following criteria:

   a) No public or private street is proposed or required to be constructed or widened;
   b) No other completion of public improvements or guarantee thereof is required other than individual on-lot stormwater management systems;
   c) No more than four (4) new lots are created.

3) **Major Subdivisions.** Major subdivisions include all subdivision applications that do not meet the criteria for a minor subdivision outlined above as determined by the Development Review Board.

Figure 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 Development Review Board 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.

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.

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 the requirements in Section 7.4 and 27 V.S.A .Chapter 17.

SECTION 7.2 SUBDIVISION APPLICATION REQUIREMENTS

A) **Applications.** For all subdivisions (including boundary adjustments), the applicant shall submit a completed subdivision application, two (2) original, full sized copies of all required plans and/or plats and seven (7) reduced (11 x 17) copies of all required plans and/or plats. The Development Review Board may request additional copies. All applications shall comply with the requirements in Table 7.1. A brief written narrative describing the proposed subdivision and its conformance with these regulations, and the goals and policies of the Town and Village of Enosburgh, Vermont Comprehensive Plan, shall be submitted with all subdivision applications.

B) **Modifications.** The Development Review Board may waive or modify application submission requirements upon written request by the applicant if the Development Review Board judges that the application submission requirements are not requisite in the interest of the public health, safety, and general welfare, or are inappropriate both in the short and long term. The Development Review Board may modify the requirements for the provision of any or all improvements and requirements, if in its judgment they are not necessary for the protection of public health, safety, and general welfare or are inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision (24 V.S.A. § 4418(2)(A)). The Development Review Board may impose appropriate and reasonable conditions to address the objectives of the modified requirements. No such modification may be granted if it would have the effect of nullifying the intent and purpose of these regulations, or the Act.

Table 7.1: Application Requirements ✓ – the item is required	Minor Subdivision - Sketch Plan	Major Subdivision - Final Plan and Plat	Major Subdivision - Sketch Plan	Major Subdivision - Preliminary Plan	Major Subdivision - Final Plan and Plat
Note: Information required in this table may be prepared on 1 or more sheets, as necessary to make the information clear and legible.					
Application form (7 copies)	✓	✓	✓	✓	✓
Application fee	✓	✓	✓	✓	✓
Subdivision Plan Requirements					
Location Map	✓	✓	✓	✓	✓
Title Block – including the following information:	✓	✓	✓	✓	✓
Project Title	✓	✓	✓	✓	✓
Plan Title (Overall site plan, utility plan, stormwater plan, etc.)	✓	✓	✓	✓	✓
Location Description	✓	✓	✓	✓	✓
Site Address	✓	✓	✓	✓	✓

Table 7.1: Application Requirements ✓ – the item is required	Minor Subdivision - Sketch Plan	Major Subdivision - Final Plan and Plat	Major Subdivision - Sketch Plan	Major Subdivision - Preliminary Plan	Major Subdivision - Final Plan and Plat
Name of Landowners	✓	✓	✓	✓	✓
Name of Developer/Client (if different than landowner)	✓	✓	✓	✓	✓
Scale (minimum 1 inch = 200 feet)	✓	✓	✓	✓	✓
Name, Title, License Number, and Stamp of Surveyor, VT Licensed Engineer, Architect, or Landscape Architect who prepared the plan (if applicable)		✓		✓	✓
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, uses of adjacent lots, information about historically significant structures on site, etc.	✓	✓	✓	✓	✓
Area of land in square feet or acres for each tract, lot, structure, and large feature.	✓	✓	✓	✓	✓
Contour lines at intervals of 20 feet		✓		✓	✓
Lot and Tract Identification – boundaries for entire tract, lot lines for each existing and proposed lot, and for any involved land (access road, easements, rights-of-way, and any open space or mitigation land). Existing and proposed lots should be differentiated. Each lot shall be given a number for reference.	✓	✓	✓	✓	✓
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: -the "parent parcel" is 10 acres or less in size, and/or		✓		✓	✓

Table 7.1: Application Requirements ✓ – the item is required	Minor Subdivision - Sketch Plan	Major Subdivision - Final Plan and Plat	Major Subdivision - Sketch Plan	Major Subdivision - Preliminary Plan	Major Subdivision - Final Plan and Plat
-greater than 50% of acreage of the "parent parcel" is subdivided into lots					
Adjacent property and owners – all adjacent lands should be labeled with the name of the property owner(s) and their addresses.	✓	✓	✓	✓	✓
Existing features (i.e. non-portable features of the landscape) – Streams, ponds, floodplain, River Corridors and wetlands; prime and statewide agricultural soils, structures, foundations, and old cellar holes; wells, springs, and septic systems; stone walls and fence lines; historic or archeological resources; forest boundaries, fields, large trees, and rock outcroppings; transportation and utility infrastructure like roads, sidewalks, and power lines; conserved land, and any other existing features.	✓	✓	✓	✓	✓
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 roads, driveways and parking areas, landscaping, utilities, signs, dumpsters, tanks, lights, water supplies, and septic systems.		✓		✓	✓
Mitigation measures – Any stream or wetland buffers, or agricultural or wildlife habitat easements, or other areas required to be set aside for preservation/conservation.	✓	✓	✓	✓	✓
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.	✓	✓	✓	✓	✓

Table 7.1: Application Requirements ✓ – the item is required	Minor Subdivision - Sketch Plan	Major Subdivision - Final Plan and Plat	Major Subdivision - Sketch Plan	Major Subdivision - Preliminary Plan	Major Subdivision - Final Plan and Plat
Building envelopes, reserve areas, and open space (if any).	✓	✓	✓	✓	✓
Public rights-of-way and easements	✓	✓	✓	✓	✓
Specialized Plans/Plats					
Utility Plan – Location of water and sewer improvements and easements/rights-of-way, including force-mains, pump stations, and underground electric and telephone lines.		✓		✓	✓
Erosion and Sediment Control Plan – Locations where sediment will 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).		✓		✓	✓
Stormwater Management Plan – Detail on collection, retention, and treatment of stormwater. The plan shall show site grades, direction of drainage flow, and design of any detention basins.		✓		✓	✓
Road and Bike/Pedestrian Plan – Current and proposed grades for the installation of roads, bridges, driveways, sidewalks, bike lanes, and other pedestrian amenities. The applicant shall show cross sections of proposed roads and sidewalks and detail information for all associated transportation infrastructure.		✓		✓	✓
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.		✓		✓	✓
Lighting and Signage Plan – Locations and illumination of exterior lights. Location and dimensions of all exterior signs.		✓		✓	✓
Garbage Collection Plan – Location for garbage collection and method for containing garbage put out for pick-up.		As Required		As Required	As Required

Table 7.1: Application Requirements ✓ – the item is required	Minor Subdivision - Sketch Plan	Major Subdivision - Final Plan and Plat	Major Subdivision - Sketch Plan	Major Subdivision - Preliminary Plan	Major Subdivision - Final Plan and Plat
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.		As Required		As Required	As Required
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.		As Required		As Required	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, or adjacent properties, and a description of the probable uses (drawn in sketch plan format). This includes information about subdivision phasing.		As Required		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.		As Required			As Required
Modifications – A written request for modifications from application requirements.	✓		✓	✓	
Engineer's Certificate – A certificate from a consulting engineer, approved by the Selectboard, as to the satisfactory completion of all improvements required by the Development Review Board, or in lieu thereof, a performance bond or equivalent surety to secure completion of such improvements and their maintenance for a period of two years, with a certificate from the Selectboard that it is satisfied with either the bonding or surety company, or with security furnished by the applicant.		As Required			As Required
Open Space Management Plan – A plan showing how proposed open space will be managed and conserved.		As Required		As Required	As Required
Fiscal Impact Analysis – An analysis of fiscal costs and benefits to the town.		As Required		As Required	As Required
Environmental Impact Assessment - An analysis of potential environmental impacts, proposed mitigation measures.		As Required		As Required	As Required

Table 7.1: Application Requirements ✓ – the item is required	Minor Subdivision - Sketch Plan	Major Subdivision - Final Plan and Plat	Major Subdivision - Sketch Plan	Major Subdivision - Preliminary Plan	Major Subdivision - Final Plan and Plat
Groundwater Protection and Replenishment Study – An analysis of the proposed subdivisions' effect on groundwater quality and replenishment.		As Required		As Required	As Required
State Wastewater Permit - Copy of state wastewater permit(s) or letter of exemption.		As Required			As Required

SECTION 7.3 SUBDIVISION REVIEW PROCEDURE

A) **Overview.** Detailed review process requirements for boundary adjustments, minor subdivisions, and major subdivisions are included in this Section. The subdivision review process differs by subdivision type

Table 7.2 Subdivision Review at a Glance
1. **Pre-application meeting (Optional).** Applicant meets with Zoning Administrator to discuss objectives and preliminary plans for the subdivision. (See Section 7.3)
2. **Sketch Plan Review (Required for all subdivisions).** Applicant submits sketch plan review application; applicant attends sketch plan review meeting with the Development Review Board; if approved, the Development Review Board classifies the subdivision as minor or major and instructs the applicant on the requirements for subsequent review. (See Section 7.3)
3. **Preliminary Plan Review (Required for all major subdivisions and may be required for minor subdivisions).** Applicant submits preliminary plan review application; applicant attends preliminary plan review public hearing; the DRB issues decision on preliminary plan. (See Section 7.3)
4. **Final Plan and Plat Review (Required for all subdivisions).** Applicant submits Final Plan and Plat review application, which shall be based on an approved preliminary plan if applicable; applicant attends final plan and plat public hearing; the DRB issues a decision on the final plan and signs the final plat. (See Section 7.4(D))
5. **Recording Final Plat (Required for all subdivisions).** The applicant shall file copies of the final approved plat for recording in the Village's Land Records. (See Section 7.3)

B) **Boundary Line Adjustments**. Applications for Boundary Line Adjustments may receive administrative approval by the Zoning Administrator and proceed directly to a public hearing

before the Development Review Board for final plan and plat approval in accordance with Section 10.1 (J). In order to approve the Boundary Line Adjustment, the Zoning Administrator must conclude that the application:

C) **Minor and Major Subdivisions.** Applications for minor and major subdivisions shall following the following approval procedures:

1) **Pre-Application Meeting**. An optional pre-application meeting is encouraged between the applicant and the Zoning Administrator to introduce the applicant to the Village's Land Use and Development Regulations, to discuss the applicant's objectives, and to schedule any site inspections, meetings, and/or plan submissions. The applicant may complete the pre-application meeting by making an appointment with the Zoning Administrator.

2) **Sketch Plan Review**. Sketch Plan Review is required for all subdivisions. A Sketch Plan Application shall serve as a basis for informal discussion regarding the design of a proposed subdivision or land development.

a) **Application Requirements.** A Sketch Plan application shall include the information in Table 7.1 and shall be submitted to the Zoning Administrator.

b) **Review Procedure**. Upon receipt of a complete sketch plan application, the Zoning Administrator shall schedule and provide notice of an initial meeting to be held at the earliest available regularly scheduled Development Review Board meeting after the date of submission. At the meeting the Development Review Board will review the sketch plan and accompanying information for compliance with these subdivision regulations. The applicant, and/or, their duly authorized representative, shall attend the meeting of the Development Review Board on the sketch plan to discuss the requirements of these regulations. The Development Review Board may reasonably continue the Sketch Plan review to subsequent meetings in order to visit the site, consult with appropriate agencies, organizations and officials, and make recommendations to the subdivider regarding required improvements or changes needed for conformance with these Land Use and Development Regulations.

c) **Action on Sketch Plan and Plan Classification**. The Development Review Board shall issue a written determination on the sketch plan within 45 days of the close of the sketch plan meeting, which may include requirements or recommendations for modifications to the sketch plan, additional studies, or supporting documentation that shall be required at preliminary and/or final plan and plat review. This determination shall classify the project as a minor or major subdivision as defined in Section 7.2(A). Approval of a sketch plan by the Development Review Board shall not constitute approval of the subdivision plat and is merely authorization to proceed to the next step in the subdivision review process.

3) **Preliminary Plan Review.** Preliminary Plan Review is required for all major subdivisions. The Preliminary Plan is a preliminarily-engineered scale drawing in which subdivision layout ideas are illustrated in more than the rough, diagrammatic manner appropriate for Sketch Plans, but before heavy engineering costs are incurred in preparing designs, such as detailed alignments and profiles for streets and detailed calculations for stormwater management.

   a) **Public Hearing Requirements.** When the Zoning Administrator determines that the preliminary plan application is complete, the Zoning Administrator shall schedule a public hearing at the next available Development Review Board meeting, following the public notice and public hearing procedures of Section 10.1(D). A site visit may be conducted as part of the public hearing.

   b) **Application Requirements.** A Preliminary Plan Review application shall include the information in Table 7.1 and shall be submitted to the Zoning Administrator within 6 months from the close of the Sketch Plan Review meeting. If the Preliminary Plan application is not submitted within six (6) months of the Sketch Plan Review meeting (or the Pre-Application meeting if Sketch Plan was waived), a new Sketch Plan application must be submitted for review.

   c) **Review Procedure.** When the Zoning Administrator has determined that the Preliminary Plan Review application is complete, they shall schedule a Preliminary Plan Review public hearing at the next available Development Review Board meeting in accordance with the public notice and public meeting requirements in 10.1(D)(2) and 10.1(E).

      i. The applicant, or their agent, should attend the meeting at which the Preliminary Plan is being considered. If the applicant or their agent is not present at such a meeting, the Development Review Board may act on the application or table it to a subsequent meeting. However, the hearing shall not be continued for longer than 60 days at which time the application can be denied for lack of information if the Development Review Board determines there is a lack of adequate information with which to make a decision.

      ii. The applicant shall not submit revised plans or revisions to other application materials between the time the submission is accepted as complete and the meeting at which the Preliminary Plan is being considered, unless specifically requested by the Zoning Administrator to do so. If the applicant, of his/her own volition, wishes to revise the submitted plans prior to review by the Development Review Board, the pending application must be withdrawn via a written request, a complete package of application materials must be resubmitted and the Development Review Board review process shall start anew.

d) **Action on Preliminary Plan.** The Development Review Board, within forty-five (45) days of the completion of the public hearing, or any continuation thereof, shall approve, modify and approve, or deny said preliminary plan in compliance with Section 10.1(F) Approval of the Preliminary Plan shall not constitute approval of the Final Plan and Plat.

e) **Effect of Preliminary Plan Approval.** Approval of a preliminary plan does not constitute approval of the subdivision plat. Prior to approval of the final subdivision plat, the Commission may require additional changes as a result of further study. The approval of a preliminary plan shall be effective for a period of six (6) months, and any plan not receiving Final Plan and Plat approval prior to the expiration of six (6) months shall be null and void and the subdivider shall be required to submit a new plat for preliminary approval subject to all new zoning and subdivision regulations. The Zoning Administrator may grant extensions, in writing, beyond this 6 month period when there are delays the applicant is unable to avoid, or when a phased subdivision is required as a condition of preliminary plan approval.

4) **Final Plan and Plat Review.** Final Plan and Plat Review is required for all subdivisions and shall constitute approval or denial of the final subdivision plan and plat.

a) **Public Hearing Requirements.** A public hearing on the final plan and plat, warned in accordance with Section 10.1(D) shall be held by the Development Review Board at the earliest available regularly scheduled Development Review Board meeting, after the date of submission of a complete application. The applicant or his duly authorized representative shall attend the hearing to discuss the final plan and plat.

b) **Application Requirements.** A Final Plan and Plat Review application shall include the information in Table 7.1 and shall be submitted to the Zoning Administrator within 1 year from the close of the Preliminary Plan Review public hearing or Sketch Plan Review meeting (this depends on if the application is a major or minor application). If the Final Plan and Plat application is not submitted within this designated timeframe, the applicant must repeat either Preliminary Plan Review, if it was required, or Sketch Plan Review. If the Development Review Board determines that the application is substantially changed from the previously approved layout, then the Development Review Board may require the applicant to submit a new Sketch Plan or Preliminary Plan for review.

c) **Review Procedure.** When the Zoning Administrator has determined that the Final Plan and Plat application is complete, they shall schedule a Final Plan and Plat review public hearing at the next available Development Review Board meeting in accordance with the public notice and public meeting requirements in 10.1(D)(1) and 10.1(E).

i. The applicant, or their agent, should attend the public hearing at which the Final Plan and Plat is being considered. If the applicant or their agent is not

present at such a meeting, the Development Review Board may act on the application or continue the hearing to a subsequent meeting.

ii. The applicant shall not submit revised plans or revisions to other application materials between the time the submission is accepted as complete and the meeting at which the Final Plan and Plat is being considered. If the applicant, of their own volition, wishes to revise the submitted plans prior to review by the Development Review Board, the pending application must be withdrawn via a written request, a complete package of application materials must be resubmitted and the Development Review Board review process shall start over again.

d) **Action on Final Plan and Plat.** The Development Review Board shall, within forty-five (45) days of the public hearing or any continuation thereof, approve, modify and approve, or deny such plan and plat in compliance with Section 10.1(F).

e) **Effect of Final Plan and Plat Approval.** Final approval shall contain a time limit within which all improvements shall be completed, not to exceed three years, unless otherwise required or extended by the Development Review Board. If approved, the applicant shall file the survey plat in accordance with Section 7.3(D).

f) **Conditions of Final Plan and Plat Approval.**

i. Final approval by the Development Review Board shall not be deemed evidence of any acceptance by the Town of any proposed street, easement, utility, open space, or other required public improvements shown on the final plat. Such acceptance may only be accomplished by a formal resolution of the Selectboard.

ii. All streets, drainage, water, sewer, and other required improvements shall be provided and installed at the sole expense of the subdivider as a condition of plat approval by the Development Review Board. The Development Review Board may require a performance bond per Section 7.4.

D) Plat Recording.

1) Upon final approval of all subdivisions by the DRB, the applicant shall prepare a copy of the plat for recording in conformance with the requirements of 27 V.S.A. Chapter 17. Within 180 days of the date of receipt of final plan approval, the applicant shall file two (2) copies of the final subdivision plat, including one (1) mylar copy and (1) paper copy, for recording with the town. Approval of subdivision plats not filed and recorded within this 180-day period shall expire. However, the Zoning Administrator may grant one 90-day extension for plat filing. All recorded plats shall be signed by the Chair of the

Development Review Board prior to recording. A digital copy of the plat shall be provided to the Zoning Administrator.

2) All approved building envelopes, if they exist within a subdivision or PUD, shall be shown on the final plat.

3) Every subdivision plat shall show all proposed roads and pedestrian rights-of-way, as required under these Regulations, regardless of whether a proposed right-of-way is intended to be accepted by the Town.

E) Subdivision Amendments

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

SECTION 7.4 GENERAL SUBDIVISION STANDARDS

A) **Evaluation and Application of Standards.** The Development Review Board shall evaluate any applicable subdivisions of land in accordance with the standards set forth in this section. The Development Review Board may require the applicant to submit data addressing impacts related to these following standards. In light of findings made on these standards, the Development Review Board may require modification and phasing of the proposed subdivision, or measures or conditions to avoid or mitigate any undue adverse impacts.

B) **Basic Standards.**

1) **Character of the Land.** The Development Review Board shall determine that the proposed for subdivision is of such a character appropriate for the intended purpose and density of use, as proposed in the subdivision application, without inflicting undue adverse impact on public health and safety, the environment, neighboring properties, or the character of the surrounding area and community as described in Section 2.3 and Town and Village of Enosburgh, Vermont Comprehensive Plan..

2) **Compatibility with Existing Settlement Patterns.** Subdivisions shall be designed and laid out to achieve the purpose and desired settlement pattern of the district in which they are located. New subdivisions shall:

a) maintain and extend desired settlement patterns, including lot area and configuration, road layout, and building locations for the neighborhood or district in which they are located; and

b) maintain contiguous tracts of open land;
c) and connect and extend where appropriate to existing road, sidewalk, path, utility and open space corridors.

3) **Conformance with the Town and Village of Enosburgh, Vermont Comprehensive Plan and Other Regulations.** Subdivision proposals shall conform to the goals and policies of the Town and Village of Enosburgh, Vermont Comprehensive Plan other provisions of these regulations, the capital budget and program, and all other bylaws, ordinances and regulations of the Village of Enosburg Falls currently in effect.

4) **Density and Lot Layout.** Density, lot size, and layout shall conform to zoning district dimensional standards in Article 2, unless modified or waived by the Development Review Board under planned unit development provisions in accordance with Article 6. In determining density, lot size, and layout, consideration shall be given to topography, soils and drainage conditions .

   a) No new lot created shall have an area or frontage less than the minimum required for the district in which it is located (see Table 2.1). Any public right-of-way or private right-of-way shall create lot frontage (corner lots, therefore, have frontage on two roadways).
   b) Dogleg lots, bowling alley lots, and lots otherwise contorted in order to get around these bylaws are not permitted. Lot lines should be designed to follow existing land characteristics such as land contours, fence lines, roads, and paths, protect significant natural resources and avoid excessively steep slopes, water courses, or wetlands, and where no other form of subdivision or PUD is possible.
   c) No new lot shall be created unless it has an approved access in compliance with Section 4.4.
   d) Lower densities of development may be required by the Board based on site limitations.
   e) Side lot lines shall generally be at right angles to straight roads, or radial to curved roads. When such an arrangement is not possible, the angle between the side lot line and the road line shall be shown on the plat.

5) **Establishment of Building Envelopes**. The Development Review Board may require the designation of building envelopes to limit the location of structures and associated site development to one or more portions of a lot. Building envelopes shall be designed to identify and limit the location of principal and accessory structures, parking areas, and associated site development (excluding road and utility rights-of-way or easements) on one or more portions of a lot. The size and shape of the building envelope shall be, at a minimum, determined by district setback requirements, unless otherwise required by the Development Review Board or these regulations. Building envelopes shall not include floodplain, wetlands, streams or river corridors. Dimensions of lots and building envelopes shall be large enough to accommodate the purpose for which they are

intended to be used. The Development Review Board may also require the identification of specific building footprints if, in their judgment, such information is required to meet the standards set forth in these regulations.

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

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

C) Community Services and Utilities

1) **Municipal Facilities and Services.** The proposed subdivision shall not create an undue burden on municipal facilities or create an unreasonable demand for public services (e.g. shall not result in an increase in student enrollment in excess of existing or planned school capacity). Considerations shall include the capacity of facilities and services directly affected, and the public cost of improvements relative to the anticipated tax return from the proposed development.

2) **Fire Protection Facilities and Emergency Access.** Subdivisions shall provide adequate water storage or distribution facilities for fire protection to the satisfaction of the Development Review Board. The applicant shall submit documentation from the Enosburgh Fire Department as to the adequacy of emergency access and fire protection facilities. Where recommended by the Enosburgh Fire Department, the Development Review Board shall require the applicant to install fire hydrants, dry hydrants, or ponds.

3) **Infrastructure.** All streets, drainage, water, sewer, and other required infrastructure and improvements shall be provided and installed at the sole expense of the applicant as a condition of plan approval. The Development Review Board, in coordination with the Village Trustees, may require a performance bond or other form of security to ensure that the project is constructed and maintained in compliance with the Water System Ordinance, Sewer Ordinance, and/or Street Dedication Ordinance. Village acceptance of infrastructure shall follow the general requirements and procedures outlined in the appropriate ordinance.

D) Utilities.

1) **Locations.** All utilities, existing and proposed, throughout the subdivision shall be shown on the final plan.

a) The Development Review Board may require that all utility lines, including but not limited to electric, fiber optic, gas, telephone, and cable television, be located underground throughout the subdivision, in order to reduce wind and ice damage to lines and protect the scenic character of the community.

b) The subdivider shall coordinate subdivision design with utility companies to insure adequate and suitable areas for underground and above-ground installation, both for the proposed subdivision and areas adjacent to the subdivision.

c) Utility corridors shall be shared with other utility and or transportation corridors where feasible, and located to minimize site disturbance, the fragmentation of agricultural, forest and conservation lands, and any adverse impacts to natural, cultural or scenic resources and to public health.

2) **Easements.** Easements of sufficient width shall be provided to the utility so as to serve both the proposed subdivision and existing and anticipated development outside the subdivision. Such easements shall be shown on the final plat.

E) **Traffic.** The proposed subdivision shall not cause unreasonable congestion or unsafe conditions on the affected public or private roads.

F) **Phasing.** The Development Review Board may permit submission of the final plan in phases, each covering a reasonable portion of the entire proposed development as shown on the approved Preliminary Plan; provided that the first final plan phase shall be submitted within one (1) year after approval of the Preliminary Plan. Each subsequent phase shall be submitted within one (1) year of approval of the previous phase, provided all phases have been submitted within three (3) years after the date of Preliminary Plan approval.

G) **Legal Requirements.** If required, the applicant shall provide the Development Review Board with appropriate documentation for the adequate management and maintenance of all commonly owned entities, including community wastewater and water supply systems, community facilities, parking areas, private roads and rights-of-way, trail and utility rights-of-way, and open space. Ownership, management, and maintenance shall be clearly dictated in a covenant, easement, and/or other legal mechanism approved by the Development Review Board. In the case of a right-of-way that is not intended for acceptance by the Town, the mechanism by which the right-of-way is to be privately maintained, owned and/or conveyed shall clearly be documented. All legal documents applying to a particular parcel shall be included in the deed and recorded in the Enosburg Falls Land Records.

ARTICLE 8. PLANNING AND DESIGN STANDARDS

SECTION 8.1 APPLICABILITY

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

SECTION 8.2 SITE PRESERVATION, VEGETATION MANAGEMENT, AND LANDSCAPING

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

B) Vegetation and Natural Cover. Land shall be subdivided and developed to minimize grading, cut, and fill, and to the degree possible, to retain the natural contours. Wherever possible, the natural cover shall be conserved and stormwater runoff shall be minimized; low impact development techniques are encouraged. Vegetation such as trees and shrubs shall be retained or may be reasonably required by the Development Review Board for screening and aesthetic purposes.

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

1) Within areas designated for a building envelope and for an access drive, tree removal may be permitted as needed to accommodate the purposes of the lot. Mature trees that can be saved should be welled and protected against changes in grade.

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

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

D) Landscaping and Screening. The Development Review Board shall require landscaping and/or screening according to the following standards. Landscaping and screening shall be installed within a time frame established by the Development Review Board.

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

2) Street trees are required per Section 8.4.

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

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

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

Figure 8.1 – Landscaping and Screening

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.

a) Existing trees, shrubs, evergreens and other vegetation to be preserved on the site;
b) The landform and overall landscaping plan for the development;
c) Other factors which affect the safety and appearance of the development.
d) The adequacy of landscaping materials to meet seasonal conditions, soil conditions, erosion control, and light on the site.
e) Adequate setbacks and site grading to insure that plantings are not adversely affected by traffic and road salt.

SECTION 8.4 STREETS AND ROADS

A) Required Street Improvements. Streets shall be constructed logically in relation to the topography so as to provide safe intersections, grades and alignments, and adequate drainage and shall conform to the Development Road Standards for the Village of Enosburg Falls, any other road ordinances in effect at the time, and shall conform to the dimensional and geometric design standards for local roads and streets contained within the the Vermont Agency of Transportation's Standard A-76 as most recently amended. As a condition of approval, applicants shall be required to provide the following street improvements:

1) **Connection.** Construction of all new public and private streets shall coordinate with existing and future development adjacent to the proposed development and/or subdivision. Construction of streets outside the subdivision may be required to establish a connection between the subdivision and the existing street system, with the design and construction standards for such connections to be determined by the

Village Board of Trustees based on what part they play in the Village's overall street system.

2) **Length and Terminus.** Construction of all new public and private streets shall avoid long, dead-end roads, but discourage or control through traffic by utilizing traffic calming techniques as recommended by the VT Agency of Transportation. The maximum length of a cul-de-sac or dead-end street shall be 1,200 feet. An exception to that requirement may be made for temporary dead-end streets. Dead-end streets or cul-de-sacs shall terminate in a turn-around with a radius of thirty-five (35) feet and a minimum paved area of twenty (20) feet in width, or a "T" or "Y" configuration. A snow removal area shall be made available on the plan. Provisions shall be made for temporary turn-a rounds for temporary dead-end streets. The subdivider shall demonstrate that dead-end streets or cul-de-sacs are the best use of the land, and there is no possibility of surrounding land that would become undeveloped due to dead-end streets or cul-de-sacs.

3) **Upgrades.** Where existing streets provide access between the subdivision and the state highway system, and the existing streets do not meet Village and State of Vermont standards for the traffic volumes which would occur once the subdivision is built, upgrading of existing streets to the Village standards will be required for the projected traffic volume.

4) **Stormwater Management.** All improvements necessary for street drainage, including but not limited to culverts, drainage pans, inlets, curbs and gutters shall be required.

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

6) **Landscaping.** The Development Review Board may require that suitable hardwood shade trees be planted along streets where trees do not exist at intervals of at least 40 feet.

B) Curbs. Curbs and gutters shall be provided where sidewalks are provided within road rights-of-way. This requirement may be waived only upon recommendation of the Development Review Board and upon demonstration that adequate drainage for streets and sidewalks will be provided. Curbs, gutters, and storm drainage grates shall be designed to accommodate safe bicycle travel. Excessive curb cuts shall be minimized. Where possible, curb cuts and driveways shall be shared with adjoining parcels.

C) Sidewalks. Sidewalks that connect to the existing Village sidewalk network shall be required in the Central Business District and the High Density Residential District. Sidewalks shall be required in the Commercial District and Low Density Residential District for major subdivisions. In the Commercial District and the Low Density Residential District, where the

Development Review Board determines that pedestrian connection to the existing Village sidewalk network is feasible, such connection shall be made.

SECTION 8.5 WATER AND WASTEWATER INFRASTRUCTURE

A) Extension of Municipal Water and Sewer Mains and Laterals. An applicant may install, with approval of the Village Trustees in compliance with the Water System Ordinance and the Sewer Ordinance, the extension of the public municipal water and sewer mains to and within a proposed subdivision or other type of land development. All cost shall be borne by the applicant.

B) Fire Protection Facilities. Adequate water storage facilities for fire protection within subdivisions shall be provided to the satisfaction of the Development Review Board and the Fire Chief. Fire hydrants shall be installed by the applicant if deemed necessary by the Fire Chief.

SECTION 8.6 STORMWATER AND EROSION CONTROL

A) Erosion and Sediment Control.

1) **Plan.** The preparation and implementation of an erosion and sediment control plan, to be implemented during project construction, shall be required by the Development Review Board. The plan shall be prepared by a professional engineer licensed by the State of Vermont. The plan shall ensure that site improvements, including excavation, road and driveway construction, site clearing and grading, do not have an undue adverse impact neighboring properties or surface waters.

2) **Standards.** Land shall be developed so as to retain the natural contours and to conserve the natural cover and soil. All areas exposed during construction shall be protected in accordance with the standards of the Agency of Natural Resources "Low Risk Site Handbook for Erosion Prevention and Sediment Control." Vegetation and structures shall be established according to a schedule as required by the Development Review Board.

B) Stormwater.

1) **Plan.** The preparation and implementation of a stormwater management plan, prepared by a professional engineer licensed by the State of Vermont, shall be required by the Development Review Board. The applicant shall provide a stormwater management plan that provides information regarding the following: stormwater drainage, infiltration, retention and treatment facilities, including culverts and ditches. This plan shall be accompanied by a map showing topography with contours at intervals of not more than 20 feet. Off-site easements and/or management facilities may also be required by the Development Review Board as needed to accommodate stormwater runoff on adjoining properties or downstream from the proposed development.

2) **Standards.** Stormwater infrastructure shall be designed to accommodate potential stormwater runoff from the entire upstream drainage area, based on conditions of total potential development. The Development Review Board shall require applicants to maintain post-development peak storm flows at predevelopment levels. All stormwater management facilities shall be designed in accordance with best management practices (BMPs) for stormwater management as most recently amended by the Vermont Agency of Natural Resources. Low-impact development techniques are encouraged.

SECTION 8.7 UTILITIES AND STREET LIGHTING

A) Utility Lines

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

B) Street Lighting

1) Streetlights shall not be provided except at locations where the Development Review Board determines that a light is required to illuminate a safety hazard. When required, streetlights shall be mounted at heights of no more than 20 (twenty) feet. Streetlights installed shall meet the character of the zoning district in which it is located.

SECTION 8.8 AGRICULTURAL LAND

A) In order to prevent harm to the scenic and agricultural land resources in the Village, the subdivision of lots and the sighting of non-agricultural buildings in the Conservation and Agriculture/Rural Residential zoning districts shall be subject to the following:

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

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

SECTION 8.9 RARE, THREATENED AND ENDANGERED SPECIES

A) Natural areas containing rare, threatened, or endangered plants and animals may exist throughout the Village. Applicants shall provide information about the existence and location of rare, threatened, or endangered species. Applicants shall take all reasonable measures to protect all identified rare, threatened, or endangered species as by incorporating them into proposed common areas or by avoiding disturbance and land development in such areas.

SECTION 8.10 HISTORIC STRUCTURES AND SITES

A) Applicants shall design land development to protect existing historic resources on the list of State and National Historic Registers available from the Vermont Department of Historic Preservation. The protection of an existing historic resources shall include the conservation of the landscape immediately associated with and significant to that resource, to preserve its historic context. Where, in the opinion of the Development Review Board, a plan will have an impact upon a historic resource, the developer shall mitigate that impact to the satisfaction of the Development Review Board by modifying the design, relocating proposed lot lines, providing landscape buffers, or other approved means. See also Section 5.3 Adaptive Reuse of Historic Structures.

SECTION 8.11 RURAL ROAD CORRIDORS AND SCENIC VIEWS

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

SECTION 8.12 RECREATIONAL TRAILS

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

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

    a) The points at which the trail enters and exits the tract remain unchanged.
    b) The proposed alteration exhibits quality trail design according to generally accepted principles of landscape architecture.
    c) The proposed alteration does not coincide with a paved road intended for use by motorized vehicles.

B) An applicant may propose and develop a new trail. When new recreational trails are proposed and intended for public or private use, they shall be protected by a permanent conservation easement on the properties on which they are located. The width of the protected area in which the trail is located should be a minimum of ten feet. The language of the conservation easement shall be to the satisfaction of the Development Review Board.

C) New recreational trails and improvements to existing recreational trails shall demonstrate adherence to principles of quality trail design and the following standards:

1) Trails shall have a vertical clearance of no less than ten (10) feet.
2) Width of the trail surface may vary depending upon type of use to be accommodated, but in no case shall be less than three (3) feet or greater than six (6) feet.

ARTICLE 9. HAZARD AREA REGULATIONS

SECTION 9.1 STATUTORY AUTHORIZATION AND EFFECT

A) In accordance with 10 V.S.A. Chapter 32, and 24 V.S.A. Chapter 117 §4424, §4411 §4414, and 24 VSA Chapter 59, there is hereby established a bylaw for areas at risk of flood damage in the Village of Enosburg Falls, Vermont.

SECTION 9.2 STATEMENT OF PURPOSE

A) Avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding related inundation and erosion;

B) Ensure that the selection, design, creation, and use of development in hazard areas, as defined in this article, is reasonably safe and accomplished in a manner that is consistent with public wellbeing, does not impair stream equilibrium, flood plain services, or the stream corridor,

C) Manage all flood hazard areas designated pursuant to 10 V.S.A. Chapter 32 § 753, the municipal hazard mitigation plan; and make the Village of Enosburg Falls, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

SECTION 9.3 LANDS TO WHICH THESE STANDARDS APPLY

A) These standards shall apply to all development in River Corridors and Special Flood Hazard Area (Hazard Area Overlay District) in the Village of Enosburg Falls. The Hazard Area Overlay District overlays other existing zoning districts and the regulations herein are the minimum standards that must be met before meeting the additional standards applicable in the underlying zoning district. These hazard areas include:

1) The River Corridors, as published by the Vermont Agency of Natural Resources including the Statewide River Corridors and refinements to that data based on field-based assessments, which are hereby adopted by reference. Where River Corridors are not mapped, the standards in Section 905 shall apply to all rivers and streams included in the Vermont Hydrography Dataset (VHD) as shown in Table 9.1:

Table 9.1 River Corridor Standards

Drainage Area	Area To Which Standards Apply
Greater Than 2 Square Miles	As mapped by ANR
Between 2 Square Miles and .5 Square Miles	50 feet from top of bank or top of slope
Less Than .5 Square Miles	No standard

1) The Special Flood Hazard Area identified in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management (FEMA), and National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Section 753, which are hereby adopted by reference and declared to be part of these regulations.

B) Base Flood Elevations and Floodway Limits.

1) Where available (i.e. zones A1-A30, AE, & AH), the base flood elevations and floodway limits (or data from which a community can designate regulatory floodway limits) provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer the provisions of these regulations.

2) In Special Flood Hazard Areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program (i.e. Zone A) 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 available from state or federal agencies or other sources shall be obtained.

C) Interpretation. The information presented on any maps, or contained in any studies, adopted by reference, is presumed accurate.

1) If uncertainty exists with respect to the boundaries of the Special Flood Hazard Area or the floodway, the location of the boundary shall be determined by the Zoning Administrator (ZA). If the applicant disagrees with the determination made by the ZA, a Letter of Map Amendment from FEMA shall constitute proof.

2) If uncertainty exists with respect to the boundaries of the River Corridor, the location of the boundary shall be determined by the ZA. If the applicant disagrees with the determination made by the ZA, a letter of determination from the Vermont Agency of Natural Resources shall constitute proof.

D) Precedence of Bylaw. The provisions of these flood hazard bylaws shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Where this flood hazard regulation imposes a greater restriction the provisions here shall take precedence.

E) Warning and Disclaimer of Liability. This article does not imply that land outside of the areas of special flood hazard area, River Corridor, or land use permitted within Flood Hazard Overlay District will be free from flooding or flood damages. These standards shall not create liability on the part of the Village of Enosburg Falls or any town official or employee thereof for any flood damages that result from reliance on the standards of this article or any administrative decision lawfully made thereunder.

SECTION 9.4 DEVELOPMENT REVIEW IN HAZARD AREAS

A) **Zoning Permit.** A zoning permit is required from the Administrative Officer for development in hazard areas as defined in Section 9.11. Development that requires conditional use approval, non-conforming use approval, or a variance from the Development Review Board (DRB) under this article must have such approvals prior to the issuance of a zoning permit by the Zoning Administrator. Any zoning permit issued will require that all other necessary permits from State or Federal Agencies have been received before work may begin.

B) **Permitted Development.** The following development is permitted and requires only a zoning permit from the Zoning Administrator provided that the development standards in Section 9.5 are met:

1) Special Flood Hazard Area (excluding Floodway):

   a) Non-substantial improvements to existing structures
   b) Accessory structures
   c) Development related to on-site septic or water supply systems
   d) Building utilities
   e) At-grade parking for existing structures
   f) Recreational vehicles
   g) Lake or river access atructures
   h) Retaining wall/floodwalls
   i) The removal of a building or other structure in whole or in part
   j) New or replacement fuel storage tanks for existing structures

2) Floodway and River Corridor

   a) Recreational vehicles

C) **Conditional Use Review.** Conditional use approval by the Development Review Board is required prior to the issuance of a zoning permit by the Zoning Administrator for the following development:

1) Special Flood Hazard Areas (excluding Floodway):

   a) Substantial improvement, elevation, relocation, or flood proofing of existing structures;
   b) Grading, excavation; or the creation of a pond
   c) Improvements to existing roads;
   d) Bridges, culverts, channel management activities, or public projects which are functionally dependent on stream access or stream crossing;

e) Public utilities;

2) Floodway

a) All improvements to existing structures in the floodway

3) River Corridor

a) Improvements to existing primary structures in the River Corridors that do not expand the footprint of the existing structure more than 500 square feet
b) Accessory structures in the River Corridors, of 500 square feet or less, that represent a minimal investment
c) Structure utilities
d) At-grade parking for existing structures in the River Corridors

D) Prohibited Development. The following development is prohibited:

1) Special Flood Hazard Areas

a) New residential or non-residential principal structures (including the placement of manufactured homes)
b) Storage or junk yards
c) New fill except as necessary to elevate structures above the base flood elevation
d) Critical facilities
e) All development not exempted, permitted, or conditionally permitted

2) Floodway

a) New residential or non-residential structures (including the placement of manufactured homes)
b) Storage or junk yards
c) New fill except as necessary to elevate structures above the base flood elevation
d) Accessory structures
e) Critical facilities
f) All development not exempted, permitted, or conditionally permitted

3) River Corridor

a) New residential or non-residential structures (including the placement of manufactured homes)
b) Storage or junk yards
c) New fill (except where the River Corridor and Special Flood Area overlap in which case new fill can be used to elevate structures above the base flood elevation)
d) Critical facilities

e) All development not exempted, permitted, or conditionally permitted

E) Exempted Development. The following development is exempted from regulation under this article:

1) Maintenance of existing roads and storm water drainage.
2) Silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices.
3) Agricultural activities conducted in accordance with the Vermont Department of Agriculture's Required Agricultural Practices (RAP).

SECTION 9.5 HAZARD AREA DEVELOPMENT STANDARDS

A) Special Flood Hazard Area:

1) All Development - All development shall be:"

   a) Reasonably safe from flooding;
   b) Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood;
   c) Constructed with materials resistant to flood damage;
   d) Constructed by methods and practices that minimize flood damage; and
   e) Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
   f) Adequately drained to reduce exposure to flood hazards;
   g) Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and,
   h) Required to locate any fuel storage tanks (as needed to serve an existing building in the Special Flood Hazard Zone) a minimum of one foot above the base flood elevation and be securely anchored to prevent flotation; or storage tanks may be placed underground, if securely anchored as certified by a qualified professional.

2) In Zones AE, AH, and A1-A30 where floodways and/or base flood elevations have not been determined, development shall not be permittd unless a registered professional engineer certifies that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not result in any increase in water surface elevation of a base flood levels during the occurrence of the base flood more than one foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer.

3) Structures to be substantially improved in Zones A, A1-30, AE, and AH shall be located such that the lowest floor is at least one foot above base flood elevation. This shall be documented, in as-built condition, with a FEMA Elevation Certificate.

4) Non-residential Development:

   a) Shall meet the standard in Section 9.5(A)(3); or;
   b) 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 two feet above base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for 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.

5) Fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited.

6) Fully enclosed areas that are above grade, below the lowest floor, and below base flood elevation, shall:

   a) Be used solely for parking of vehicles, building access, or storage.
   b) Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs shall 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.

7) Recreational vehicles shall be fully licensed and ready for highway use.

8) A small accessory structure of 500 square feet or less, that represents a minimal investment, need not be elevated to the base flood elevation provided the structure is placed on the building site so as to offer minimum resistance to the flow of floodwaters and shall meet the criteria in Section 9.5(A)(6).

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

10) 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.

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

12) Watercourse Carrying Capacity: The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained and any alteration or relocation shall not result in any decrease of stream stability.

13) Bridges and culverts, which by their nature must be placed in or over the stream, must have a stream alteration permit from the Agency of Natural Resources where applicable.

14) Subdivisions and Planned Unit Developments must be accessible by dry land access outside the special flood hazard area.

15) Existing buildings, including manufactured homes, to be substantially improved in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least as high as the depth number specified on the community's FIRM, or at least two feet above grade if no depth number is specified.

B) Floodway Areas:

1) Encroachments or development above grade and less than one foot above the base flood elevation, are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a licensed professional engineer, certifying that the proposed development will:

   a) Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood;
   b) Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.
   c) Meet all standards in Section 9.5(A).

2) Public utilities may be placed underground, and the analyses may be waived, where a licensed professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.

C) River Corridors:

1) Improvements to existing structures, and any associated fill as needed to comply with elevation requirements outlined in Section 9.5(A), shall not decrease the distance between the existing primary building and the top of bank;

2) Accessory structures may be located within 50 feet of the existing primary building provided that the location does not decrease the distance between the existing primary structure and the top of bank.

3) Development shall not increase the susceptibility of the development, or other properties, to potential fluvial erosion damage.

4) Development shall not increase the potential of materials being swept onto other properties, or into the stream or river, and shall not increase the potential of causing damage to other properties from fluvial erosion;

5) Development shall not cause an undue burden on public services and facilities including roads, bridges, culverts, and emergency service providers during and after fluvial erosion events.

6) Bridge and culvert projects shall have a Stream Alteration Permit; and

7) Channel management activities must be authorized by the Agency of Natural Resources.

SECTION 9.6 STANDARDS FOR REVIEW OF NONCONFORMING STRUCTURES

A) The Development Review Board 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 the standards in Section 4.10 and provided that the following criteria are met:

1) The proposed development is in compliance with all the Development Standards in Section 9.5 of this bylaw;

2) A nonconforming structure that is substantially damaged or destroyed may be reconstructed only in circumstances when the structure cannot be relocated to a less hazardous location on the parcel. The lowest floor of the reconstructed structure shall be rebuilt to one foot or more above the base flood elevation, and the structure shall otherwise comply with all requirements of the National Flood Insurance Program;

3) Nonconforming structures and nonconforming uses shall be considered abandoned where such structures or uses are discontinued for more than 1 year; and

4) An individual manufactured home lot in an existing manufactured home park that is vacated shall not be considered a discontinuance or abandonment of nonconformity.

Replacement manufactured homes shall be placed so as to meet the development standards in this bylaw.

SECTION 9.7 VARIANCES TO THE DEVELOPMENT STANDARDS

A) Variances shall be granted by the Board of Adjustment only in accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations and Section 3.4.

B) A variance for development within the River Corridors may be allowed if, based on a review by Vermont Agency of Natural Resources, it is determined that the proposed development will not obstruct the establishment and maintenance of fluvial geomorphic equilibrium for the watercourse.

C) Any variance issued in the Special Flood Hazard Area (including Floodway) shall not increase flood heights, increase susceptibility to flooding or erosion, additional threats to public safety or infrastructure (including emergency services during flood events), or result in extraordinary public expense. All decisions granting a variance shall be accompanied with a letter from the Zoning Administrator informing the applicant in writing 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 APPLICATION AND ADMINISTRATIVE REQUIREMENTS

A) Application Submission Requirements. Applications for development in hazard areas shall include:

1) Where applicable, a site plan that depicts the proposed development, all water bodies, Special Flood Hazard Areas, Floodways, River Corridors, the shortest horizontal distance from the proposed development to the top of bank of any stream, any existing and proposed drainage, any proposed fill, and pre and post development grades, the elevation of the proposed lowest floor (as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps), and any other information required by the Development Review Board to ensure compliance with Section 9.5 and any other applicable sections of these regulations.

2) A Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet shall identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the municipal zoning permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the Zoning Administrator and shall be attached to the zoning permit before work can begin.

B) Referrals.

1) Upon receipt of a complete application for a substantial improvement or new construction, the Zoning Administrator shall submit a copy of the application to the Vermont Agency of Natural Resources for comment in accordance with 24 VSA §4424(D). A zoning application shall not be considered complete, and may only be issued by the Zoning Administrator, following receipt of comments from the Agency, or 30 days has elapsed since the application was submitted, whichever is sooner.

2) If the applicant is seeking a permit for the alteration or relocation of a watercourse, copies of the application shall also be submitted to the adjacent communities, the Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. Copies of such notice shall be provided to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation. A permit may be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Vermont Agency of Natural Resources, whichever is sooner. The Development Review Board should consider comments from the NFIP Coordinator at the Vermont Agency of Natural Resources.

C) Decisions

1) Decisions of the Development Review Board and Zoning Administrator shall be issued in compliance with Section 10.1.

D) Records

1) The Administrative Officer shall maintain a record of all development located within hazard areas:

   a) All permits issued for development in hazard areas;
   b) An Elevation Certificate with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) of the lowest floor, including basement, of all new, substantially improved, or flood proofed buildings (not including accessory buildings) in the Special Flood Hazard Area;
   c) All flood proofing and other certifications required under this regulation; and,
   d) All decisions of the Development Review Board (including variances and violations) and all supporting findings of fact, conclusions and conditions.

SECTION 9.9 CERTIFICATE OF COMPLIANCE

A) All development subject to review under this article shall also be subject to the requirements in Section 10.2.

SECTION 9.10 VIOLATION OF HAZARD AREA REGULATIONS

A) This article shall be enforced under the requirements of Section 10.4. A copy of the notice of violation shall be mailed the State NFIP Coordinator.

B) If all appeals have been resolved, but a violation remains, 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.

SECTION 9.11 DEFINITIONS

Definitions in this section apply only to the Flood Hazard Regulations in this article.

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

Area of Special Flood Hazard: Special flood hazard area.

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

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

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.

Buffer: Means an undisturbed area consisting of trees, shrubs, ground cover plants, duff layer, and generally uneven ground surface that extends a specified distance horizontally across the surface of the land from the mean water level of an adjacent lake or from the top of the bank of an adjacent river or stream.

Channel: Means an area that contains continuously or periodic flowing water that is confined by banks and a streambed.

Channel Width (or bankfull width): Is the width of a stream channel when flowing at a bankfull discharge. The bankfull discharge is the flow of water that first overtops the natural banks. This flow occurs, on average, about once every 1 to 2 years.

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.

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 Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

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

Floodplain or Flood-Prone Area: Any land area susceptible to being inundated by water from any source (see definition of "flood").

Floodproofing: 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.

Floodway, Regulatory in the Village of Enosburg Falls: The regulatory floodway in of the Village of Enosburg Falls is 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.

Fluvial Erosion: Erosion caused by streams and rivers. Fluvial erosion can be catastrophic when a flood event causes a rapid adjustment of the stream channel size and/or location.

Functionally Dependent Use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

Hazard Areas: The FEMA delineated 100-year flood plain (also referred to as the special flood hazard area) including the floodway, and the Vermont Agency of Natural Resources delineated River Corridor.

Historic Structures: 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: means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or enclosure, usable solely for parking of vehicles, building access, or storage in a area other than a basement area is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

Manufactured Home: A structure that is transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" specifically does not include a "recreational vehicle". Manufactured homes must meet the Federal Manufactured Home Construction and Safety Standards Act (42 USC Section 5401 [1976], commonly known as the HUD code.

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

Nonconforming Structure: Means a structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the administrative officer. Structures that were in violation of the flood hazard regulations at the time of their creation, and remain so, remain violations and are not nonconforming structures.

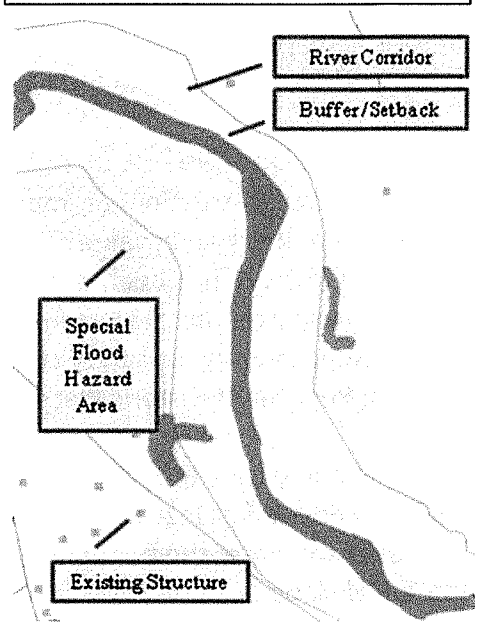
Nonconforming Use: Means use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the administrative officer.

Nonconformity: Means a nonconforming use, structure, lot, or parcel.

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.

Nonsubstantial 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.

Figure 9.1 – Hazard Areas



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

River Corridor: Means the land area adjacent to a river that is required to accommodate the dimensions, slope, planform, and buffer of the naturally stable channel and that is necessary for the natural maintenance or natural restoration of a dynamic equilibrium condition, as that term is defined in 10 V.S.A. §1422, and for minimization of fluvial erosion hazards, as delineated by the Agency in accordance with the ANR River Corridor Protection Guide.

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

Start of Construction: 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 tank,

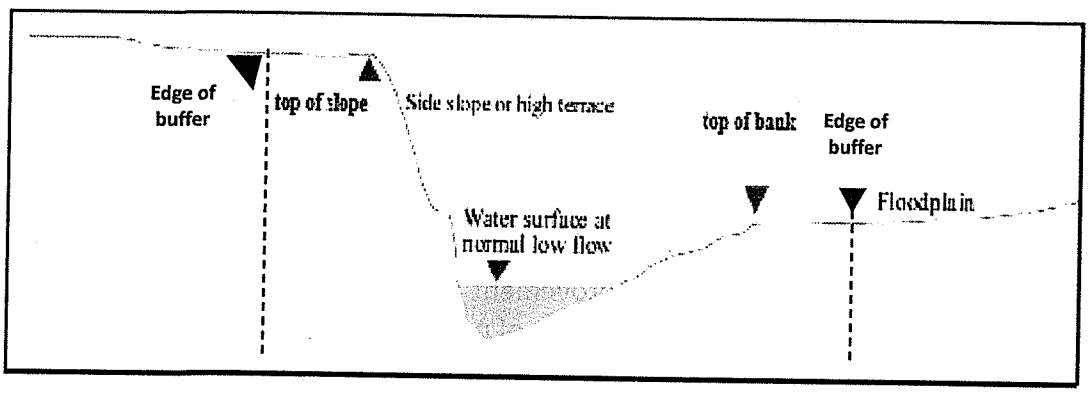
Substantial Damage (In reference to development in the Flood Hazard Overlay District): damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

Top of Bank: Means that vertical point along a stream bank where an abrupt change in slope is evident. For streams in wider valleys it is the point where the stream is generally able to overflow the banks and enter the floodplain. For steep and narrow valleys, it will generally be the same as the top of slope.

Figure 9.2

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



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 ADMINISTRATIVE REQUIREMENTS

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

2) **Zoning Administrator.** A Zoning Administrator shall be appointed for a term of three years by the Enosburgh Selectboard in accordance with the Act (24 V.S.A. 4448). The Zoning Administrator may hold any other office in the municipality other than membership on the Development Review Board. The compensation of the Zoning Administrator shall be fixed under sections 932 and 933 of the Act, and the officer shall be subject to the personnel rules of the municipality adopted under sections 1121 and 1122 of the Act. The Zoning Administrator shall administer the Enosburg Falls Land Use and Development Regulations literally and shall not have the power to permit any land development or subdivision that is not in conformance with these regulations. The Zoning Administrator may be removed for cause at any time by the Village Trustees after consultation with the Planning Commission.

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

i) Inform any person applying for municipal permits or authorizations that the person should contact the regional permit specialist employed by the agency of natural resources in order to assure timely action on any related state permits; nevertheless, the applicant retains the obligation to identify, apply for, and obtain relevant state permits.
ii) Approve, deny, or refer applications for zoning permits under Section 10.1(C).
iii) Issue certificates of compliance under Section 10.2.
iv) Approve boundary line adjustments prior to DRB review of final plat in accordance with section 7.2C.
v) As necessary and/or in response to a written complaint, inspect and investigate public or private property at reasonable times in order to determine compliance with these regulations.
vi) Pursue violations of these regulations through procedures set forth under Section 10.4.
vii) Maintain a full and exact record, available to the public, of all applications and fees received, permits issued and denied, and violations reported.
viii) Maintain a record of development in the flood hazard area in accordance with Section 3.6.

b) Acting Zoning Administrator. An Acting Zoning Administrator may be appointed pursuant to the Act.

2) **Planning Commission**. A Planning Commission, whose number of members shall consist of not less than three (3) nor more than nine (9) members, shall be appointed by the Village Trustees for terms of three (3) years. A majority of the Commissioners shall be residents of the Town of Enosburgh. Vacancies shall be filled by the Enosburgh Selectboard for unexpired terms and upon the expiration of terms. Any member of the Planning Commission may be removed at any time by unanimous vote of the Enosburgh Selectboard. The Planning Commission shall have the following functions:

a) Prepare amendments to these regulations and other regulations as permitted by the Act;
b) Prepare and update the municipal plan every 5 years, and prepare amendments to the plan as necessary;
c) As a statutory party, participate in the review of Act 250 projects.
d) Undertake capacity studies and make recommendations on matters of land development, village renewal, transportation, economic and social development, village beautification and design improvements, historic and scenic preservation, the conservation of energy and the development of renewable energy resources, and wetland protection;
e) Prepare and present recommended building, plumbing, fire, electrical, housing, and related codes and enforcement procedures, and construction specifications for streets and related public improvements;
f) Prepare and present a recommended capital budget and program for a period of five years, as set forth in section 4440 of the Act;
g) Hold public meetings;
h) Require from other departments and agencies of the municipality such available information as relates to the work of the planning commission;
i) In the performance of its functions, enter upon land to make examinations and surveys;
j) Participate in a regional planning program;
k) Retain staff and consultant assistance in carrying out its duties and powers;
l) Undertake comprehensive planning, including related preliminary planning and engineering studies; and
m) Other such acts or functions as it may deem necessary or appropriate to fulfill the duties and obligations imposed by, and the intent and purposes of the Act.

3) **Development Review Board.** A Development Review Board, whose number of members shall consist of not less than three (3) nor more than nine (9) members, shall be appointed by the Enosburgh Selectboard for terms of three (3) years. A Development Review Board member may also be a member of the Planning Commission. Vacancies shall be filled by the Enosburgh Selectboard for unexpired terms and upon the expiration of terms. Any member of the Development Review Board may be removed for just cause by the Village Trustees upon written charges and after a public hearing. The Development Review Board shall adopt rules of procedure and ethics policies with

regard to conflicts of interest to guide its official conduct in accordance with the requirements of the Act [§4461] and Vermont's Open Meeting Law [1 V.S.A. §§310-314]. The Development Review Board shall have all powers set forth in the Act to administer the provisions of these regulations, including, but not limited to, the power to:

a) Review requests for access by right-of-way or easement for land development without frontage under Section 4.4;
b) Review proposed conditional uses under Section 3.2;
c) Review planned unit developments under Article 6;
d) Site plan review under Section 3.3;
e) Review proposed subdivisions under Article 7;
f) Review appeals from a decision of the Zoning Administrator under Section 10.3;
g) Review of request for variances under Section 3.4;
h) Review of waiver applications under Section 3.5;
i) Resolve uncertainties in the Official Zoning Map, except for disputes involving flood hazard area boundaries; and
j) Any other reviews required by these regulations.

B) Fees. The Village Trustees shall establish a schedule of application fees and amend the schedule as needed to cover some or all the cost of the administration and enforcement of these regulations. In accordance with the Act [Section 4440], the fee schedule may include provisions that require applicants to pay for reasonable costs of an independent technical review of their applications. The schedule of fees shall be posted in the offices of the Municipal Clerk and Zoning Administrator, and may be altered or amended only by resolution of the Trustees.

C) Issuing Zoning Permits. Zoning permits shall be issued by the Zoning Administrator only in accordance with the Act [§4449] and these regulations including the following provisions:

1) Within thirty (30) days of receipt of a completed application, including all materials and fees, the Zoning Administrator shall either issue or deny a permit in writing, or refer the application to the Development Review Board for their review and action. If the Zoning Administrator fails to act within the 30 day period, a permit shall be deemed issued on the 31st day. In the case of referral for Board approval, the Zoning Administrator shall issue or deny a permit based on and concurrently with the Board's decision (see also Section 10.1 (F) below). Each permit or denial issued shall include a statement of the time in which appeals may be made under Section 10.3.

Figure 10.1 – Referrals
The Zoning Administrator must refer all land development that requires conditional use review, site plan review, subdivision approval, variance approval, access by right of way approval, and any other board approval to the DRB before a zoning

2) In accordance with the Act [§4449(a)], when an application for a zoning permit seeking approval of a structure is submitted, the Zoning Administrator shall provide the applicant with a copy of the applicable building energy standards under 30 V.S.A. §§ 51 (residential building energy standards) and 53 (commercial building energy standards). However, the Zoning Administrator need not provide a copy of the standards if the structure is a sign or a fence or the application certifies that the structure will not be heated or cooled. In addition, the Zoning Administrator may provide a copy of the Vermont Residential Building Energy Code Book published by the Department of Public Service in lieu of the full text of the residential building energy standards.

3) When a permit is issued under these regulations, the applicant shall post a permit notice, on a form provided by the Village of Enosburg Falls, within view of the public right-of-way most nearly adjacent to the subject property until the applicable time for appeal under Section 10.3 has passed. The notice shall contain a statement of the appeal period and information noting where a full description of the project and approval can be found.

4) Within three (3) days following the issuance of a permit under these regulations, the Zoning Administrator shall post a copy of the permit in the Village Clerk's Office until the expiration of the appeal period and a copy shall be provided to the Listers.

5) For development where a prior permit or approval has been issued, including subdivision plat approval, no permit shall be issued until documentation is provided that all applicable conditions of the prior permit or approval have been met.

6) Within thirty (30) days after the issuance of a zoning permit or notice of violation, the Zoning Administrator shall deliver either the original, a legible copy, or a notice of the permit or violation to the Municipal Clerk for recording in the municipal land records as provided in 24 V.S.A. 1154(a). The applicant may be charged the cost of the recording fees as required by law.

D) Public Notice Requirements.

1) A warned public hearing is required for conditional use review, variance review, waivers, appeals of decisions made by the Zoning Administrator, and final plan and plat subdivision review in accordance with the provisions below. Public notice shall be given not less than 15 days prior to the date of the hearing by all of the following:

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

c) Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-ways, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal; and
d) For hearings on subdivision plats located within 500 feet of a municipal boundary, written notification the clerk of adjoining municipality.

2) Public notice for, site plan review, sketch plan subdivision review and preliminary plan subdivision review shall be given not less than 7 days prior to the date of the public hearing, and shall at a minimum include the following:

   a) Posting of the date, place and purpose of the hearing in three (3) or more public places within the municipality, and
   b) Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding, is a prerequisite to the right to take any subsequent appeal.

3) The Zoning Administrator shall be responsible for notification of adjoining property owners and posting notice in a local newspaper, and three public places in South Hero. The applicant shall be responsible for posting the notice within view from the public right-of-way nearest to the property for which the application is being made, and shall take all reasonable efforts to assure that the notice remains posted for the required duration. The applicant shall be required to bear the cost of public warning and the cost and responsibility of notifying adjoining landowners as required above, as determined from the current municipal grand list.

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

action shall be remanded to the Board to provide new posting and notice, hold a new hearing, and take a new action.

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

1) **Quorum.** For the conduct of any hearing, and the taking of any action, a quorum shall be not less than the majority of members of the Development Review Board. Any action of the Board shall be taken by a concurrence of the majority of the members of the Board.

Figure 10.1 – Deliberations

Getting from the Public Hearing to the Decision

- ⇨ Once the Board has heard evidence on a case in a public hearing, the Board needs to deliberate on the evidence and come to a decision.
- ⇨ Deliberations start after the Chair closes the public hearing and opens deliberations.
- ⇨ Deliberations are not subject to the open meeting law, and therefore if minutes are taken they are not part of the public record.
- ⇨ Deliberations may be open to the public or closed to the public.
- ⇨ During open deliberations, the public may stay to listen but cannot participate in the discussion.
- ⇨ If the board is deliberating in private, the public must leave.

2) **Minutes**. The Development Review Board shall keep minutes of all its proceedings, which shall include the names of all members present, names of other active participants, all motions, proposals, and resolutions made, major discussion on all motions, proposals, and resolutions made, and the results of any vote taken. Minutes shall be filed in the Village Office as public records not more than 5 days after the meeting.

3) **Public Hearings**. Public hearings of the Development Review Board shall be noticed and warned in accordance with D above. In accordance with the Board's adopted Rules of Procedure and Ethics Policies, in any public hearing there shall be an opportunity for each person wishing to achieve status as an interested person for purposes of appeal under Section 10.3, to demonstrate that they meet the criteria as defined in Article 11. The Development Review Board shall keep a record of the name, address, and participation of each of these persons.

a) During all public hearings, the Development Review Board may:

i) examine or caused to be examined any property, maps, books, or records bearing upon the matters concerned in that proceeding;

ii) require the attendance of any person having knowledge concerning the application;

iii) require an independent technical review of one or more aspects of an application, such as, but not limited to, a traffic study, environmental impact analysis, or economic impact analysis, to be paid for by the applicant.
iv) take testimony and require that all information be documented as accurate, and administer oaths or take acknowledgement in respect to those matters.

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

E) Issuing Decisions of the Development Review Board. The Development Review Board shall prepare a written decision for all land development applications referred from the Zoning Administrator within 45 days after the adjournment of the public hearing. Within the same time period, the Zoning Administrator shall send the Board's decision, in addition to a permit or denial in accordance with the board's decision, to the applicant or appellant by certified mail. Copies of each decision shall also be mailed to every person or body appearing and having been heard at the hearing, be recorded in the municipal land records, and a copy maintained on file in the municipal office in accordance with the Act. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective the 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 recorded evidence. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals under Section 10.3 may be taken. The minutes of a meeting may suffice, provided that the factual basis and conclusions relating to the review standards are provided in accordance with these requirements.
2) In making a decision in favor of the applicant, the Development Review Board may attach conditions and safeguards as it deems necessary to implement the purposes of the Act, these regulations, and the municipal plan currently in effect.

F) Permit Effective Date.

1) **For permits issued without board review**. No zoning permit shall take effect until the time for appeal under Section 10.3 (A) has passed or, in the event that a notice of appeal is properly filed, until final adjudication of that appeal by the board is complete.

2) **For permits issued with board review.** No zoning permit shall take effect until the time for appeal under Section 10.3 (B) has passed or in the event that a notice of appeal is properly filed, until the Environmental Court issues a stay or the expiration of 15 days, which ever comes first.

G) Expiration.

1) **Zoning Permits.** Zoning permits remain in effect for two (2) years from the date of issuance, unless the permit specifies otherwise. All development authorized by the zoning permit shall be substantially commenced within this period. At a minimum, development must include the complete construction of an access, a foundation, and a wastewater and water supply permit, or the zoning permit shall become null and void and reapplication and approval for further development shall be required.

   a) **Extension.** The Zoning Administrator may administratively issue one (1) permit extension of not more than two (2) years from the date of application, if the application for an extension is made in writing prior to permit expiration, and it is determined by the Zoning Administrator that the extension is justified due to delays in the issuance of other necessary permits, project financing, or other unforeseen circumstances.

2) **Subdivision Plat Approval.** Subdivision approvals never expire as long as they are filed properly according to (J) below.

3) **Site Plan and Conditional Use Approval.** Site Plan and Conditional Use approval shall expire ten years from the date of approval.

H) Combined Review. In cases where a proposed project will require more than one type of development review, the Development Review Board may warn and hold a single hearing for the purpose of reviewing and acting on the proposal. The Zoning Administrator shall identify proposed projects appropriate for combined review and assist the applicant in preparing and submitting coordinated applications to facilitate combined review.

1) To the extent feasible, the combined review process shall be conducted in the following order:
   a) Site Plan
   b) Access by right-of-way
   c) Requests for Waivers or Variances
   d) Subdivision review (sketch, preliminary and final) or PUD review
   e) Conditional Use Review

3) All notice requirements and provisions applicable to each purpose of the hearing shall be complied with. Notice for combined review, to the extent feasible, shall be made in the same public notice. In the case of differing notice requirements, the process which provides more notice, by amount of time or by other means, shall apply.

3) All decision requirements and deadlines applicable to each purpose of the proceedings shall apply. Written decisions may be issued separately for each review conducted as part of the combined review. However, the Development Review Board may also combine written decisions for a combined review into a single written decision when applicable.

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

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

SECTION 10.2 CERTIFICATE OF COMPLIANCE

A) A certificate of compliance issued by the Zoning Administrator shall be required after the completion of all land development for which a zoning permit has been issued to ensure that the permitted land development has been completed according to permit conditions and these regulations.

1) The Zoning Administrator shall provide an application for a certificate of compliance with all zoning permits issued according to these regulations.

2) The Zoning Administrator may inspect the premises to ensure that all work has been completed in conformance with the zoning permit and associated approvals, including all permit conditions.

3) If a Wastewater and Potable Water Supply permit under Section 4.15 is required, the Zoning Administrator shall not issue a certificate of compliance until such permit has been issued and filed in the town land records.

4) If the applicant has determined that a certificate as explained in 30 V.S.A. 51 (residential building energy standards) or 53 (commercial building energy standards) is required for any land development, such certificate must be recorded in the Town Clerk's Office as a condition precedent to the issuance of a certificate of compliance.

5) If an applicant has applied for a certificate of compliance for the installation of a mobile home or manufactured home, the applicant shall provide the Zoning Administrator with

a copy of a completed HUD Form 309 (as required in 24 C.F.R. 3285 and 3286) before the certificate of compliance may be issued.

SECTION 10.3 APPEALS

A) **Decisions of the Zoning Administrator**. The applicant or an interested person as defined in (C) below may appeal any decision or act taken by the Zoning Administrator by filing a written notice of appeal with the Development Review Board within 15 days of the act or decision.

1) The Board shall hold a public hearing warned in accordance with Section 10.1 (D) within 60 days of receiving a notice of appeal and mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.

2) The Board may reject an appeal without hearing, and issue a decision and findings of fact within 10 days of the filing of a notice of appeal, if the Board considers the facts or issues raised by the appellant to be substantially or materially the same as those decided in a previous appeal by the appellant.

3) Upon completion of a hearing, the Board shall issue a written decision in accordance with Section 10.1 (F). If an appeal is approved, the permit shall take effect immediately; if an appeal is denied, it shall be null and void immediately.

B) **Decisions of the Development Review Board.** The applicant or an interested person who has participated in a municipal regulatory proceeding may appeal a decision of the Development Review Board within 30 days of its issuance to the Environmental Court.

1) Participation in a local regulatory proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.

2) Notice of appeal shall be sent by certified mail, with fees, to the Environmental Court and by mailing a copy to the Zoning Administrator, who shall supply a list of interested persons (including the applicant if not the appellant) to the appellant within five (5) working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person.

C) **Interested Persons**. For the purposes of this bylaw, an interested person means any one of the following:

1) A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw who alleges that such regulation imposes on such property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case.

2) The municipality in which the plan or bylaw of which is at issue in an appeal brought under this chapter or any municipality which adjoins such municipality.

3) A person owning or occupying property in the immediate neighborhood of a property which is the subject of any decision or act taken under this chapter, who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan or bylaw of that municipality.

4) Any ten persons owning real property within a municipality listed in subdivision (2) of subsection who, by signed petition to the development review board the plan or a bylaw of which is at issue in any appeal brought under this title, allege that any relief requested by a person under this title, if granted, will not be in accord with the policies, purposes or terms of the plan bylaw of the village.

5) Any department and administrative subdivision of this state owning property or any interest therein within a municipality listed in subdivision (2) of this subsection, and the agency of commerce and community development of this state.

SECTION 10.4 VIOLATIONS AND ENFORCEMENT

A) **Violations.** The commencement or continuation of any land development, subdivision or use which is not in conformance with the provisions of these Regulations shall constitute a violation. All violations will be pursued in accordance with 24 V.S.A. §§ 4451, 4452 and/or as a civil matter enforced in accordance with the provisions of 24 V.S.A. §§ 1974a et. seq. at the discretion of the Zoning Administrator. Each day that a violation continues shall constitute a separate offense.

B) **Notice of Violation.** Pursuant to 24 V.S.A.§ 4451, no action may be brought under this Section unless the alleged offender has had at least 7 days notice by certified mail that a violation exists. The warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the 7 day period, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the 7 day period. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the bylaw after the 7 day notice period and within the next succeeding 12 months. Violations shall be recorded in the land records pursuant to Section 9.11.

C) **Enforcement.** In accordance with 24 V.S.A. §§ 4451, 4452, the Zoning Administrator shall commence or cause to be commenced in the name of the municipality any appropriate action, injunction or other proceeding to enforce the provisions of these Regulations.

   1) **Vermont Superior Court - Environmental Division.** The Zoning Administrator may pursue or cause to be pursued any appropriate action, injunction or other proceeding

in the name of the municipality to enforce the provisions of these Regulations through the Environmental Division of Vermont Superior Court. All fines imposed and collected for violations shall be paid over to the municipality.

2) **Civil Enforcement Pursuant to 24 VSA § 1974a.** The Zoning Administrator may pursue or cause to be pursued enforcement action in the name of the municipality through the Judicial Bureau if the penalty for all continuing civil ordinance violations is $800.00 or less. All enforcement matters under Title 24, Chapter 117 greater then $800.00 shall be brought in the Vermont Superior Court – Environmental Division. Penalties shall be imposed for violations of any provision of these Regulations in accordance with 24 VSA §1974a and the schedule below:

   a) A civil penalty of $50 may be imposed for the initial violation of these Regulations. The penalty for the second offense shall be $100, and the penalty for each subsequent offense shall be $200.

   b) A waiver fee may be collected, in lieu of a civil penalty, for any person who declines to contest a municipal complaint and pays the following waiver amounts for each violation. The waiver fee shall be set at $25 for the first offense, $50 for the second offense, and $100 for each subsequent offense.

3) **Enforcement Limitations.**

   a) The municipality shall observe any limitations on enforcement proceedings relating to municipal permits and approvals as set forth in 24 V.S.A. §4454. An action, injunction or other enforcement proceeding relating to any municipal land use permit may be instituted within 15 years of 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.

   b) No action, injunction or enforcement proceeding may be instituted to enforce an alleged violation of a municipal land use permit which received final approval from the applicable board, commissioner, or officer of the municipality after July 1, 1998, unless the municipal land use permit or a notice of the permit was recorded in the land records of the municipality as required by 24 V.S.A. §4449.

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

D) **Complaints.** 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 memorialize such a complaint, investigate within 30 days, and take action as appropriate in accordance with these Regulations.

ARTICLE 11. DEFINITIONS

SECTION 11.1 INTERPRETATION

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

SECTION 11.2 DEFINITIONS

Accessory Structure: A structure which is clearly incidental and subordinate to the principal structure on a lot. For residential uses these include, but may not be limited to, garages, garden and tool sheds, and playhouses. See also accessory use.

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

Affordable Housing: Housing that is either:

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

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

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

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

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

Automobile/Motor Vehicle Repair: An enclosed establishment whose primary purpose is the repair of automobiles and other motor vehicles, including body shops and general vehicle and engine repair, rebuilding and/or reconditioning shop. It also includes similar service on small equipment such as snowmobiles, 4-wheelers, lawn mowers etc. This definition excludes automobile sales. See also mixed use, automobile sales, gas station.

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

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

Brewery/Winery/Distillery: A facility for the production, packaging, distribution, and sale of beer, wine, spirits or similar fermented beverages. This use may include an area devoted to retail sales of products produced on-site for consumption both on-site or off-site. The retail sales area shall not exceed 20 percent of the total square footage used for production, packaging and distribution, or 300 square feet, whichever is greater.

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

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

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

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

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

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

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

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

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

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

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

Child Care Facility: Any establishment, except those supported in whole by tax funds, operated as a business or service on a regular or continual basis, whether for compensation or not, which provides care, protection, supervision and/or education for more than 6 full time and 4 part time children for periods of less than 24 hours. This definition shall encompass all those facilities that are required to be licensed by the State of Vermont as a day care facility, kindergarten, and/or nursery school which have an enrollment of over 10 children. See also child care home.

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

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

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

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

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

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

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

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

Development: See *Land Development*.

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

Dwelling, Accessory: An efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

- The property has sufficient wastewater capacity.
- The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling.
- Applicable setback, coverage, and parking requirements specified in these regulations are met.
- The owner lives in either the single family dwelling or the accessory apartment. 24V.S.A.(1)(E).

Dwelling, Multiple Family: A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units

provided. This definition includes attached townhouse dwellings in a row of at least three units in which each unit has its own front yard and rear access to the outside and is separated from any other unit by one or more vertical common fire resistant walls.

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

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

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

Earth Resource Extraction: Any land alteration or excavation which involves the moving or extraction of sand, gravel, topsoil, loam, sod, landfill, or similar substance for commercial purposes, except when incidental to or in connection with the construction of a building. Mining is considered earth resource extraction. Common agricultural tillage, ground care, gardening, and excavation in cemeteries are not included in this definition and shall be exempt from these regulations.

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

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

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

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

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

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

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

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

Group Home: A state licensed or registered residential care home serving not more than 8 persons who are handicapped or developmentally disabled as defined in 9 V.S.A. §4501. In accordance with the Act [§4412G], such a group home shall be considered by right to constitute a permitted single family residential use of property, except that no such home shall be so considered if it is located within 1,000 feet of another such home. For the purposes of these regulations, a group home shall also include an emergency shelter for up to 8 adults and/or children. See Section 5.9.

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

Hazardous Materials Use: Any use that by its design or nature is intended for the manufacture, processing, reprocessing, packaging, or storage of hazardous materials. This definition shall not include a gas station.

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

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

Home Occupation: An accessory business conducted by the residents of a single family dwelling, which is carried on within a minor portion the principal dwelling and/or an accessory structure,

such that the floor area dedicated to the business use is less than 25% of the total habitable floor area of the dwelling unit, and that has not more that one (1) nonresident employee onsite at any one time. See also Home Industry.

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

Junk: Old or scrap copper, brass, iron, steel, and other old or scrap or nonferrous material, including 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 a motor vehicle, other than an on-premise utility vehicle, which is allowed to remain unregistered or uninspected for a period of 90 days from the date of discovery.

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

Landscaping: 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.

Land Development: Means the division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining, excavation, or landfill, and any change in the use of any building or other structure, or land, or extension of use of land.

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

Lodging Facility: An inn, motel, hotel or other lodging facility that is made up if one building or a group of buildings containing guest rooms for occupancy and use by travelers or transients on a short term basis (less than one month on average), and having a management entity operating the buildings and providing such services as maid service, a central switchboard, or dining facilities for guests. See also bed and breakfast, mixed use, restaurant.

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

by these regulations. This definition includes an existing small lot which may not meet minimum area, width, depth, or developable land area requirements.

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

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

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

Manufacturing: Any process where the nature, size, or shape of articles or raw materials are changed, or where articles are assembled and packaged. This use may include an area devoted to retail sales of products produced on-site. The retail sales area shall not exceed 20 percent of the total square footage used for assembly, packaging and distribution. The processing of agricultural products on the premises where produced shall not be deemed to be manufacturing.

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

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

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

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

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

Mobile Home Park: Any parcel or contiguous lots of land under common ownership or control on which are sited, or which is designed, laid out or adapted to accommodate, more than two mobile homes.

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

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

Nonconforming Structure: A structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the administrative officer. 24 V.S.A §4303(15)

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

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

Patio: An area located at existing grade, located adjacent to a principal structure, which is without roof or walls and surfaced with wood, masonry, stone, brick, block or other such material. A patio shall not be used for parking a vehicle.

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

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

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

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

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

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

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

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

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

Principal Use: A use directly involved with the primary purpose of ownership on a particular lot, which, together with its accessory uses, constitutes all uses of said lot.

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

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

Public Facilities: A building or other facility owned, leased, held, used, and/or controlled exclusively for public purposes by a municipality, state, or federal government, regulated utility or railroad. Such facilities include, but may not be limited to municipal buildings and garages, water and wastewater facilities, power generation and transmission facilities, and correctional institutions. See Section 5.14 for limitations of these regulations in relation to public facilities.

Public Notice: The form of notice prescribed by section §4464 of the Act and Section 10.1(D) of these regulations.

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

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

Recreation Outdoor: A facility for outdoor recreation, including but not limited to a stadium, tennis courts, golf courses, athletic fields, swimming pools, trails for hiking (and associated infrastructure such as kiosks), horseback riding, bicycling, snowmobiling, and cross-country skiing; except for such facilities which are accessory to an approved educational facility or residential use. This use may include both public and private facilities.

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

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

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

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

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

Screening (Screened): A method of visually shielding or obscuring 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.

Senior Housing: A development of one or more dwelling units in detached or multi-unit structures on the same lot under common ownership that is dedicated as a housing for persons 55 years of age or older, and/or disabled persons, and includes legal covenants or restrictions designed to ensure the occupancy of such structures by persons 55 years of age or older and disabled persons.

Setback: The perpendicular distance from a road, lot line, boundary or other delineated feature (e.g., a stream bank or channel, shoreline, or wetland area), to the nearest part of a building, structure, or parking area on the premises..

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

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

Structure: An assembly of materials for occupancy or use, included, but not limited to, a building, mobile home or trailer, a sign, or a wall or fence over 6 feet tall, except a wall or fence on an operating farm. Not included are sidewalks, driveways, and temporary docks or floats.

Subdivision: See Land Subdivision.

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

Temporary Structure: A structure without a foundation or footings and that is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased. See Section 4.3.

Temporary Use: A use established for a limited duration with the intent to discontinue such use upon the expiration of the time period. See Section 4.2.

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

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

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

Violation: The failure of any land development to be fully compliant with these regulations.

Warehousing: Any building or part thereof used for the storage, wholesale and distribution of manufactured goods and materials, and not as a primary location or outlet for business for retail uses. This definition includes a truck terminal and associated fueling facilities. This definition does not include a gas station.

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

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

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

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

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