

**Town of Dummerston  
Vermont**

**ZONING BYLAW**

Adopted September 23, 2015  
Amended April 6, 2022

Table of Contents

ARTICLE 1: ENACTMENT, PURPOSE AND AMENDMENTS ..... 1

    Section 100 Enactment..... 1

    Section 110 Purpose..... 1

    Section 120 Application of Bylaw ..... 1

    Section 121 Unspecified Use..... 1

    Section 130 Interpretation ..... 1

    Section 140 Amendments..... 2

    Section 150 Separability ..... 2

ARTICLE 2: ESTABLISHMENT OF ZONING DISTRICTS AND ZONING MAP ..... 1

    Section 200 Purpose of Zoning Districts ..... 1

    Section 201 Establishment of Zoning Districts ..... 1

    Section 204 Allowed Uses in all Districts ..... 2

    Section 205 Conservation District CN ..... 3

    Section 210 Productive Lands District PL..... 4

    Section 215 Rural District RUR ..... 5

    Section 220 Rural Residential District RR ..... 6

    Section 225 Residential District RES..... 7

    Section 230 Settlement Area Districts SA..... 8

    Section 235 Rural Commercial District RC ..... 11

    Section 240 Commercial/Light Industrial District CI ..... 12

    Section 241 Zoning Map and Interpretation of Boundaries ..... 13

    Section 245 General Requirements for All Districts ..... 13

    Section 255 Non-Conforming Use or Structure..... 14

    Section 256 Waivers ..... 15

    Section 257 Waiver Application and Review Process ..... 16

ARTICLE 3: RIPARIAN AREAS ..... 1

    Section 300 Establishment of Riparian Areas ..... 1

    Section 301 Riparian Area Map..... 1

    Section 302 Purpose of Riparian Areas..... 1

    Section 303 Development within Riparian Areas ..... 1

Section 320 Riparian Areas ..... 1

Section 323 Designation of Riparian Areas..... 2

Section 324 Riparian Area Regulations ..... 2

ARTICLE 4: FLOOD HAZARD AREA REGULATIONS ..... 1

Section 400 Statutory Authorization ..... 1

Section 405 Statement of Purpose ..... 1

Section 410 Lands to which these Regulations Apply ..... 1

Section 420 Application Requirements..... 2

Section 425 Procedures ..... 2

Section 430 Development Standards..... 3

Section 440 Administration, Variances, and Enforcement ..... 5

Section 445 Warning of Disclaimer of Liability ..... 7

Section 450 Precedence of These Regulations ..... 7

Section 455 Definitions..... 7

ARTICLE 5: PLANNED UNIT DEVELOPMENT ..... 1

Section 500 Planned Unit Development (PUD)..... 1

Section 501 Purpose..... 1

Section 502 Application Procedure..... 1

Section 503 Permitted Uses..... 1

Section 504 General and Specific Standards for Review ..... 1

Section 505 Open Space..... 2

ARTICLE 6: GENERAL REGULATIONS ..... 1

Section 600 Required Provisions and Prohibited Effects of the Act ..... 1

Section 601 Existing Small Lots..... 1

Section 602 Required Frontage on, or Access to, Public Roads or Waters ..... 1

Section 603 Equal Treatment of Housing..... 2

Section 604 Protection of Home Occupations ..... 2

Section 605 Home Business ..... 2

Section 611 Buildings and Uses on Lots..... 4

Section 612 Abandonment of Structures..... 5

Section 615 Setback Requirements..... 5

Section 616 Exemptions to Setback Requirements..... 6

Section 620 Off-Street Parking Requirements..... 7

Section 625 Off-Street Loading Space Requirements ..... 7

Section 630 Driveways ..... 7

Section 631 Obstruction of Vision ..... 8

Section 635 Landscaping Requirements ..... 8

Section 640 Erosion and Sediment Control ..... 8

Section 645 Grading ..... 8

Section 650 Extraction of Soil, Sand or Gravel ..... 9

Section 655 Dumping ..... 9

Section 660 Performance Standards..... 10

Section 665 Outdoor Advertising Signs ..... 11

Section 669 Permit Criteria for Outdoor Advertising Signs ..... 11

Section 670 Outdoor Advertising Sign Restrictions ..... 12

Section 675 Mobile Home Parks ..... 13

Section 680 Gasoline or Auto Service-Stations ..... 14

Section 685 Home Child Care ..... 14

ARTICLE 7: ADMINISTRATION AND ENFORCEMENT ..... 1

Section 700 Administrative Officer ..... 1

Section 701 Zoning & Land Division Permits..... 1

Section 702 Permit Application ..... 2

Section 703 Issuance of Permit..... 2

Section 704 Effective Date ..... 3

Section 705 Administrative Review of Permits ..... 3

Section 706 Recording Requirements ..... 4

Section 715 Development Review Board..... 4

Section 716 Appeals ..... 5

Section 717 Public Hearings ..... 5

Section 720 Conditional Use Permits..... 6

Section 721 Conditional Use Permits: General Standards ..... 6

Section 722 Conditional Use Permits: Specific Standards ..... 6

Section 724 Site Plan Approval ..... 6

Section 725 Submission of Site Plan and Supporting Data ..... 6

Section 726 Site Plan Review Procedure ..... 7

Section 727 Conditional Use /Site Plan Permit Review ..... 7

Section 728 Variances ..... 8

Section 730 Violations & Enforcement ..... 9

ARTICLE 8: DEFINITIONS ..... 1

ARTICLE 9: WIRELESS TELECOMMUNICATIONS FACILITIES ..... 1

Section 900 Statutory Authorization ..... 1

Section 901 Statement of Purpose ..... 1

Section 905 Permits Required; Exemptions ..... 1

Section 908 Permit Application Requirements ..... 2

Section 910 Independent Consultants ..... 3

Section 912 Balloon Test ..... 3

Section 914 Criteria For Approval And Conditions ..... 4

Section 916 Continuing Obligations For Wireless Telecommunication Facilities ..... 6

Section 918 Removal Of Abandoned Or Unused Facilities ..... 6

Section 920 Definitions ..... 7

## **ARTICLE 1: ENACTMENT, PURPOSE AND AMENDMENTS**

### **Section 100 Enactment**

In accordance with the Vermont Planning and Development Act, 24 V.S.A., Chapter 117, hereinafter referred to as the "Act," § 4401 and § 4402 there is hereby established a Zoning Bylaw for the Town of Dummerston which is set forth in the text and maps that constitute this Bylaw. This Bylaw shall be known as the "Town of Dummerston Zoning Bylaw."

### **Section 110 Purpose**

It is the purpose of this Bylaw to provide for orderly community growth, to provide for the public health, safety and welfare and to further the implementation of the Vermont Planning Goals and the Dummerston Town Plan.

### **Section 120 Application of Bylaw**

The application of this Bylaw is subject to required provisions of the Act. Except as hereinafter provided, no "Land Development" as such term is defined by this Bylaw may be commenced in the Town of Dummerston, unless in conformity with the regulations herein specified for the district in which it is located. Any use not permitted by this Bylaw shall be deemed prohibited, except as provided for in Section 121.

### **Section 121 Unspecified Use**

If a particular use is not specified as a permitted or conditional use in this Bylaw, the Development Review Board (DRB) may permit it as a conditional use only if it determines the use is consistent with the General Description and Purpose set forth for the district **and** has no greater impact on abutting properties than other permitted or conditional uses.

The Development Review Board will treat such applications as requests for a Conditional Use Permit as defined in Sections 717, 720, 721 and 722 of this Bylaw. The Administrative Officer shall notify the Planning Commission of the application, and the Planning Commission may provide written or oral testimony to the Development Review Board regarding the proposed use.

### **Section 130 Interpretation**

This Bylaw is intended to repeal the previous Zoning Regulations, but is not intended to repeal, annul or impair any other regulations or permits issued.

Where this Bylaw imposes a greater restriction upon the use of a structure or land than is required by any other statute, ordinance, rule or regulation, the provisions of this Zoning Bylaw shall control.

In any case where the restrictions within this Zoning Bylaw overlap or conflict in their application to a particular structure, use or parcel of land, those provisions which would impose the greater restriction upon such structure, use or parcel of land shall control.

**Section 140 Amendments**

This Bylaw may be amended according to the requirements and procedures established in the Act.

**Section 150 Separability**

The invalidity of any Article or Section of this Bylaw shall not invalidate any other part.

## **ARTICLE 2: ESTABLISHMENT OF ZONING DISTRICTS AND ZONING MAP**

### **Section 200 Purpose of Zoning Districts**

The purpose of establishing zoning districts in the Town of Dummerston is to further the public health, safety, and welfare of the Town. Specifically, the districts seek to provide an orderly, attractive, compatible, and logical growth pattern by allocating various functional uses to areas best suited for them.

### **Section 201 Establishment of Zoning Districts**

The Town of Dummerston is hereby divided into the following Zoning Districts as shown on the Official Zoning Map:

#### **Districts**

CN	Conservation
PL	Productive Lands
RUR	Rural
RR	Rural Residential
RES	Residential
SA	Settlement Areas
RC	Rural Commercial
CI	Commercial/Light Industrial

**Section 204 Allowed Uses in all Districts**

The following Uses are allowed in all Zoning Districts. More Uses are listed under each district in Sections 205-245. State permits may be required in addition to the requirements under this bylaw. If a Use is not listed in this bylaw, it is not allowed unless it meets the criteria of Section 121.

<b>Use</b>	<b>Requirements</b>
Forestry	No permit required
Farming, including On-Farm Business	No permit required; Site Plan required for Structures, showing Setbacks are met.
Single- or Two-Family Dwelling and Accessory Use or Structure thereto	Zoning Permit
Accessory Use or Structure other than above	Zoning Permit and Site Plan Approval See Section 701.10, 724
Accessory Dwelling Unit	See Section 603.4
Home Business	See Section 605
Family Childcare Home	Zoning Permit and Site Plan Approval
Residential Care Home	Zoning Permit and Site Plan Approval
Short-Term Rental	Conditional Use Permit

**Section 205 Conservation District CN**

**General Description and Purpose**

Conservation areas are so designated because of their value to the town’s and region’s ecosystems. They are predominantly lands with higher elevations that have a mostly remote and undeveloped forested landscape and high natural, scenic or other special resource values such as unfragmented wildlife habitat and connecting habitat areas. Due to substantial physical limitations for development in these areas (such as steep terrain), existing residential development is low density and scattered mostly along town roads. Included in the conservation areas are publicly-owned lands, lands with conservation easements, and much of the forest land enrolled in the State’s Use Value Appraisal Program.

The priority and purpose of the conservation areas is to maintain large tracts of undeveloped land, much of which is forested, that has wildlife habitat, watershed, conservation corridor, and other natural resource values. To this end, permitted land uses in these areas should be limited primarily to forestry, agricultural, low density residential, and accessory uses to the permitted uses on the same lot. New or extended town roads through these areas are prohibited.

**Allowed Uses**

In addition to the Uses listed in Section 204, the following are allowed in the Conservation District:

Zoning Permit and Site Plan Approval required:

- 1. Cemetery
- 2. Reservoir

Conditional Use Permit required:

- 1. B&B
- 2. PUD – Residential only

**Area, Dimensional, and Coverage Requirements**

	<b>Residential Uses</b>	<b>Non-Residential Uses</b>
<b>Setbacks</b> (See also Sections 615- 616)		
Front (from center of traveled ways)	50 feet	50 feet
Other boundaries (from property line)	40 feet	40 feet
Lot area minimum	10 acres	10 acres
Lot width minimum	400 feet	400 feet
Lot depth minimum	400 feet	400 feet
Coverage maximum	10 percent	10 percent
Building height maximum	35 feet	35 feet
<i>no height limit for agricultural uses</i>		

**Section 210 Productive Lands District PL**

**General Description and Purpose**

Productive Lands District areas are lands that have, or have potential for, productive agricultural or forestry uses. In some locations, these lands and related undeveloped land are large parcels that also have resource values including conservation corridors, wildlife habitat and opportunity for low impact recreation. There are also some low density residential areas located in these areas.

The primary purpose of the Productive Lands District is to recognize and provide for the continuation of economic value of agricultural and forest land that is in productive use or has potential for productive use. Another purpose is to preserve extensive woodlands and undeveloped fields, while accommodating low residential development that avoids the need for new roads. Clustering of detached dwelling units is encouraged as a means for leaving land undeveloped and protecting natural resources and allowing for low intensity recreation.

**Allowed Uses**

In addition to the Uses listed in Section 204, the following are allowed in the Productive Lands District:

Zoning Permit and Site Plan Approval required:

1. Cemetery
2. Reservoir

Conditional Use Permit required:

1. B&B
2. Communication Structure
3. Community Center
4. Country Inn
5. Dwelling Multi-Family ≤4
6. Licensed Child Care Facility

**Area, Dimensional, and Coverage Requirements**

	<b>Residential Uses</b>	<b>Non-Residential Uses</b>
<b>Setbacks</b> (See also Sections 615- 616)		
Front (from center of traveled way)	50 feet	50 feet
Other boundaries (from property line)	40 feet	40 feet
Lot area minimum	5 acres	5 acres
Lot width minimum	300 feet	300 feet
Lot depth minimum	300 feet	300 feet
Coverage maximum	10 percent	10 percent
Building height maximum	35 feet	35 feet
<i>no height limit for agricultural uses</i>		

**Section 215 Rural District RUR**

**General Description and Purpose**

Rural lands are areas containing farms, forests and low-density development, and are generally located at a distance from facilities and services. Appropriate primary uses include agricultural and forestry activities, together with certain recreational and public or semi-public and institutional uses which may require a spacious site and which are compatible with the natural and rural surroundings. Concentrations of residential development such as large-scale subdivisions which will interrupt rural qualities sought to be preserved and significantly increase the demand for services and transportation facilities should be discouraged. Clustering of detached dwelling units as a means for leaving land undeveloped, and protecting habitats and natural resources should be encouraged.

The purpose of Rural Districts is to provide opportunities for some housing while maintaining moderate levels of forestry, agriculture, open land, and habitat protection.

**Allowed Uses**

In addition to the Uses listed in Section 204, the following are allowed in the Rural District:

Zoning Permit and Site Plan Approval required:

1. Cemetery
2. Reservoir

Conditional Use Permit required:

1. Animal Hospital
2. Auto Service & Repair
3. B&B
4. Campground
5. Communication Structure
6. Country Inn
7. Earth/Mineral Extraction
8. Licensed Child Care Facility
9. Kennel
10. PUD residential only
11. Recreational

**Area, Dimensional, and Coverage Requirements**

	<b>Residential Uses</b>	<b>Non-Residential Uses</b>
<b>Setbacks</b> (See also Sections 615- 616)		
Front (from center of traveled way)	50 feet	50 feet
Other boundaries (from property line)	40 feet	40 feet
Lot area minimum	5 acres	5 acres
Lot width minimum	300 feet	300 feet
Lot depth minimum	300 feet	300 feet
Coverage maximum	10 percent	10 percent
Building height maximum	35 feet	35 feet
<i>no height limit for agricultural uses</i>		

**Section 220 Rural Residential District RR**

**General Description and Purpose**

Rural Residential lands include a mix of residential, agriculture, forestry, and outdoor recreation. They are residential areas that are easily accessible by the existing road network.

The purpose of Rural Residential Districts is to provide for low to moderate density housing while maintaining a rural feel. These areas should be used to accommodate residential growth, but in a manner that preserves the rural character of the land, and is sensitive to physical limitations on development. Site specific habitat preservation (e.g., streams, wetlands, vernal pools) and preservation of landscape for resource use (forestry, agriculture and outdoor recreation) should be considered.

**Allowed Uses**

In addition to the Uses listed in Section 204, the following are allowed in the Rural Residential District:

Conditional Use Permit required:

1. B&B
2. Cemetery
3. Communication Structure
4. Country Inn
5. Dwelling Multi-Family ≤4
6. Licensed Child Care Facility
7. Kennel Mixed Use Structure
8. Mobile Home Park
9. PUD Residential Only
10. Repair Shop
11. Reservoir
12. Storage Facility
13. Storage, Portable Container

**Area, Dimensional, and Coverage Requirements**

	<b>Residential Uses</b>	<b>Non-Residential Uses</b>
<b>Setbacks</b> (See also Sections 615- 616)		
Front (from center of traveled way)	50 feet	50 feet
Other boundaries (from property line)	40 feet	40 feet
Lot area minimum	2 acres	4 acres
Lot width minimum	200 feet	300 feet
Lot depth minimum	200 feet	300 feet
Coverage maximum	15 percent	10 percent
Building footprint maximum	8,000 sq. ft.	8,000 sq. ft.
Building height maximum	35 feet	35 feet
<i>no height limit for agricultural uses</i>		

**Section 225 Residential District RES**

**General Description and Purpose**

Residential Districts are in areas that have some of the most intensive residential use of land and have good access to main roads. Generally, the lot sizes are smaller and therefore most appropriate for residences and their accessory uses. Because of the higher density residential development, a wide variety of housing types, as well as retail and service establishments in scale with the neighborhood, are allowed.

The Purpose of the Residential District is to promote moderate density residential development that is consistent with existing uses and is sensitive to the limitations of the land. Residential Districts should maintain a settlement pattern that allows for safe proximity of water wells and septic systems. Future land development should be compatible with the existing uses and surrounding aesthetic. More intense use of land within these areas may require shared water supply, sewage disposal and driveway access solutions.

**Allowed Uses**

In addition to the Uses listed in Section 204, the following are allowed in the Residential District:

Conditional Use Permit required:

- |                                 |                                 |
|---------------------------------|---------------------------------|
| 1. Animal Hospital              | 11. Mobile Home Park            |
| 2. Auto Service & Repair        | 12. Neighborhood Store          |
| 3. B&B                          | 13. Office Building             |
| 4. Cemetery                     | 14. Places of Worship           |
| 5. Communication Structure      | 15. PUD Residential Only        |
| 6. Community Center             | 16. Recreational Facility       |
| 7. Country Inn                  | 17. Repair Shop                 |
| 8. Dwelling Multi-Family        | 18. School (Public & Private)   |
| 9. Licensed Child Care Facility | 19. Storage, Portable Container |
| 10. Mixed Use Structure         |                                 |

**Area, Dimensional, and Coverage Requirements**

	<b>Residential Uses</b>	<b>Non-Residential Uses</b>
<b>Setbacks</b> (See also Sections 615- 616)		
Front (from center of traveled way)	50 feet	50 feet
Other boundaries (from property line)	40 feet	40 feet
Lot area minimum (See also Section 245)	1 acre	1 acre
Lot width minimum	200 feet	200 feet
Lot depth minimum	200 feet	200 feet
Coverage maximum	20 percent	20 percent
Building footprint maximum	8,000 sq. ft.	8,000 sq. ft.
Building height maximum	35 feet	35 feet
<i>no height limit for agricultural uses</i>		

**Section 230 Settlement Area Districts SA**

**General Description and Purpose**

Three of Dummerston’s early settlement areas remain: West Dummerston Village, Dummerston Center, and Slab Hollow. Settlement patterns in these areas include historic structures with mixed uses sited close to the street, mostly on narrow lots, or at least close to each other. These areas provide a focus for Town cultural and social activities and for mixed residential, commercial, spiritual, educational and government uses.

The Purpose of Settlement Area Districts is to encourage increased compact settlement consistent with traditional development patterns in Dummerston. Such development should occur in densities and uses that will not exceed the capability of the lands, waters, or town services or facilities to absorb such densities.

**West Dummerston Village District**

**Allowed Uses**

In addition to the Uses listed in Section 204, the following are allowed in the West Dummerston Village District:

Conditional Use Permit required:

- |                                 |                                |
|---------------------------------|--------------------------------|
| 1. B&B                          | 9. Neighborhood Store          |
| 2. Cemetery                     | 10. Office Building            |
| 3. Communication Structure      | 11. Places of Worship          |
| 4. Community Center             | 12. Public/Government Building |
| 5. Country Inn                  | 13. PUD Residential Only       |
| 6. Dwelling Multi-Family ≤4     | 14. Residential Care Facility  |
| 7. Licensed Child Care Facility | 15. School (Public & Private)  |
| 8. Mixed Use Structure          |                                |

**Area, Dimensional, and Coverage Requirements**

	<b>Residential Uses</b>	<b>Non-Residential Uses</b>
<b>Setbacks</b> (See also Sections 615- 616)		
Front (from center of traveled way)	30 feet	30 feet
Other boundaries (from property line)	20 feet	30 feet
Lot area minimum (See also Section 245)	½ acre	1 acre
Lot width minimum	125 feet	200 feet
Lot depth minimum	125 feet	200 feet
Coverage maximum	25 percent	25 percent
Building height maximum	35 feet	35 feet
<i>no height limit for agricultural uses</i>		

**Dummerston Center District**

**Allowed Uses**

In addition to the Uses listed in Section 204, the following are allowed in the Dummerston Center District:

Conditional Use Permit required:

- |                             |                                 |
|-----------------------------|---------------------------------|
| 1. B&B                      | 7. Licensed Child Care Facility |
| 2. Cemetery                 | 8. Mixed Use Structure          |
| 3. Communication Structure  | 9. Places of Worship            |
| 4. Community Center         | 10. Public/Government Building  |
| 5. Country Inn              | 11. Residential Care Facility   |
| 6. Dwelling Multi-Family ≤4 | 12. School (Public & Private)   |

**Area, Dimensional, and Coverage Requirements**

	<b>Residential Uses</b>	<b>Non-Residential Uses</b>
<b>Setbacks</b> (See also Sections 615- 616)		
Front (from center of traveled way)	30 feet	30 feet
Other boundaries (from property line)	20 feet	30 feet
Lot area minimum (See also Section 245)	2 acres	2 acres
Lot width minimum	200 feet	200 feet
Lot depth minimum	200 feet	200 feet
Coverage maximum	15 percent	15 percent
Building height maximum	35 feet	35 feet
<i>no height limit for agricultural uses</i>		

**Slab Hollow District**

**Allowed Uses**

In addition to the Uses listed in Section 204, the following are allowed in the Slab Hollow District:

Conditional Use Permit required:

- |                                 |                                |
|---------------------------------|--------------------------------|
| 1. B&B                          | 9. Neighborhood Store          |
| 2. Cemetery                     | 10. Office Building            |
| 3. Communication Structure      | 11. Places of Worship          |
| 4. Community Center             | 12. Public/Government Building |
| 5. Country Inn                  | 13. PUD Residential Only       |
| 6. Dwelling Multi-Family ≤4     | 14. Residential Care Facility  |
| 7. Licensed Child Care Facility | 15. School (Public & Private)  |
| 8. Mixed Use Structure          |                                |

**Area, Dimensional, and Coverage Requirements**

	<b>Residential Uses</b>	<b>Non-Residential Uses</b>
<b>Setbacks</b> (See also Sections 615- 616)		
Front (from center of traveled way)	30 feet	30 feet
Other boundaries (from property line)	20 feet	30 feet
Lot area minimum (See also Section 245)	½ acre	1 acre
Lot width minimum	125 feet	200 feet
Lot depth minimum	125 feet	200 feet
Coverage maximum	25 percent	25 percent
Building height maximum	35 feet	35 feet
<i>no height limit for agricultural uses</i>		

**Section 235 Rural Commercial District RC**

**General Description and Purpose**

This district includes some lands along Route 5 and the west side of Route 30. These lands also fit the criteria for Rural Residential, and therefore both residential and commercial uses are suited for these areas. Commercial uses should be compatible with surrounding residential, agricultural and other uses.

The Purpose of the Rural Commercial District is to encourage and regulate commercial, light industrial, and residential uses in defined areas along the Route 5 and 30 corridors. Such development will make the most of existing or planned facilities and services to ensure wise use of resources and public investment, a healthy economy, a stable tax base, and the protection of the health, safety and welfare of the public. Thoughtful development should be encouraged using techniques such as shared access points, increased landscaping, sign control, and emphasis on pedestrian movement.

**Allowed Uses**

In addition to the Uses listed in Section 204, the following are allowed in the Rural Commercial District:

Zoning Permit and Site Plan Approval required:

- 1. B&B

Conditional Use Permit required:

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>1. Animal Hospital</li> <li>2. Auto Service &amp; Repair</li> <li>3. Building Trade</li> <li>4. Campground</li> <li>5. Communication Structure</li> <li>6. Community Center</li> <li>7. Country Inn</li> <li>8. Dwelling Multi-Family</li> <li>9. Earth/Mineral Extraction</li> <li>10. Licensed Child Care Facility</li> <li>11. Kennel</li> <li>12. Manufacture/Pack/Process</li> <li>13. Mixed Use Structure</li> <li>14. Mobile Home Park</li> </ul> | <ul style="list-style-type: none"> <li>15. Office Building</li> <li>16. Places of Worship</li> <li>17. Portable Storage Container</li> <li>18. Public/Government Building</li> <li>19. PUD (all other)</li> <li>20. PUD Residential Only</li> <li>21. Recreational Facility</li> <li>22. Repair Shop</li> <li>23. Residential Care Facility</li> <li>24. Restaurant</li> <li>25. Retail Store</li> <li>26. School (Public &amp; Private)</li> <li>27. Storage Facility</li> <li>28. Warehouse</li> </ul> |
|---|--|

**Area, Dimensional, and Coverage Requirements**

	<b>Residential Uses</b>	<b>Non-Residential Uses</b>
<b>Setbacks</b> (See also Sections 615- 616)		
Front (from center of traveled way)	50 feet	50 feet
Other boundaries (from property line)	40 feet	40 feet
Lot area minimum	2 acres	2 acres
Lot width minimum	200 feet	300 feet
Lot depth minimum	200 feet	300 feet
Coverage maximum	15 percent	50 percent
Building footprint maximum	15,000 square feet	15,000 square feet
Building height maximum	35 feet	35 feet
<i>no height limit for agricultural uses</i>		

**Section 240 Commercial/Light Industrial District CI**

**General Description and Purpose**

These areas are in close proximity to industrial and/or commercial areas in the neighboring Towns of Brattleboro and Putney. There is good access to I-91 interchanges, and there are established commercial, light industrial businesses.

Efforts will be made to guide and regulate development in such a way as to ensure wise public investment, make the most use of existing and planned public facilities and services, and contribute to the wise use of resources, a healthy economy, a stable or growing tax base, and the protection of the health, safety, and welfare of the public.

The Purpose of the Commercial/Light Industrial District is to encourage well-planned and coordinated development of commercial and light industrial (e.g., manufacturing, warehousing, building trades, storage, etc.), and to facilitate commercial development in a manner that minimizes deleterious impacts of industrial uses on the land and surrounding community, while supporting a range of economic development and business opportunities within the Town.

**Allowed Uses**

In addition to the Uses listed in Section 204, the following are allowed in the Rural Commercial District:

Conditional Use Permit required:

- |                                 |                                 |
|---------------------------------|---------------------------------|
| 1. Animal Hospital              | 10. Office Building             |
| 2. Auto Service & Repair        | 11. Recreational Facility       |
| 3. Building Trade               | 12. Repair Shop                 |
| 4. Communication Structure      | 13. Residential Care Facility   |
| 5. Earth/Mineral Extraction     | 14. Retail Store                |
| 6. Kennel                       | 15. Solid Waste Facility        |
| 7. Licensed Child Care Facility | 16. Storage Facility            |
| 8. Light Industry               | 17. Storage, Portable Container |
| 9. Mixed Use Structure          | 18. Warehouse                   |

**Area, Dimensional, and Coverage Requirements**

	<b>Residential Uses</b>	<b>Non-Residential Uses</b>
<b>Setbacks</b> (See also Sections 615- 616)		
Front (from center of traveled way)	50 feet	50 feet
Other boundaries (from property line)	40 feet	40 feet
Lot area minimum	2 acres	2 acres
Lot width minimum	250 feet	250 feet
Lot depth minimum	250 feet	250 feet
Coverage maximum	50 percent	50 percent
Building footprint maximum	15,000 square feet	15,000 square feet
Building height maximum	35 feet	35 feet
<i>no height limit for agricultural uses</i>		

**Section 241 Zoning Map and Interpretation of Boundaries**

The location and boundaries of Zoning Districts are established as shown on the attached Official Zoning Map. The Official Zoning Map is hereby made a part of this Bylaw, together with all future amendments. Regardless of the existence of copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, which shall be located in the Town Office Building, shall be the final authority as to the current zoning status of land and water areas.

If uncertainty exists with respect to the boundary of any district, the Development Review Board shall determine the location. Where a zoning district boundary line divides any lot of record, the regulations for the less restricted part of such lot may be extended not further than 100 (one hundred) feet into the more restricted part of such lot.

**Section 245 General Requirements for All Districts**

1. Site Plan Approval is required for all land development except: one and two-family dwellings, accessory uses thereto, agricultural uses, signs allowed under Section 669.1 of this Bylaw, and one-to-two parcel land subdivisions.
2. Any subdivision less than two (2) acres requires a Wastewater Permit from the Vermont Agency of Natural Resources prior to issuance of a Land Division Permit.
3. The minimum development setback requirement from all permanent watercourses shall be 50 feet unless otherwise specified in this Bylaw.
4. The maximum building height limits of this ordinance shall apply to all principal and accessory buildings but shall not apply to chimneys, flagpoles, church spires, water towers, non-commercial antenna structures, and energy producing structures.

**Section 255 Non-Conforming Use or Structure**

In accordance with § 4412 of the Act, the following provisions shall apply to all structures and uses existing on the effective date of this Bylaw but which do not conform to the requirements set forth herein.

1. A non-conforming use or structure may be rebuilt after destruction, extended, or altered with the issuance of a Conditional Use Permit by the Development Review Board, if there is a finding that the extension or alteration will not be more detrimental to the neighborhood or environs than the existing non-conforming use or structure, and will not increase the degree of non-conformity. In the case of a one (1) or two (2) family dwelling, the finding shall be determined by the Administrative Officer.
2. In the case of a one (1) or two (2) family dwelling, buildings existing at the time of adoption of this bylaw (February 2014) may be added to in any direction up to thirty (30) feet from the public road center and up to ten (10) feet from any property line, with a zoning permit approved by the Administrative Officer.
3. Premises may be changed from one non-conforming use to a different non-conforming use only upon the issuance of a Conditional Use Permit by the Development Review Board. Such a permit shall be granted only for uses listed as permitted or conditional uses in Article 2 of this Bylaw in the district in which the development occurs which will not be more detrimental to the neighborhood or environs than the existing non-conforming use. Section 121 may be applied in these cases.
4. A non-conforming use (or structure) which has been discontinued or not used for a period of one year or more shall not be re-established except upon the issuance of a Conditional Use Permit by the Development Review Board. Any other future uses or structures shall conform with this Bylaw.

**Section 256 Waivers**

The purpose of a waiver is to allow for the reduction of dimensional requirements that might not meet the standards necessary to grant a variance. Pursuant to 24 V.S.A. §4414(8), waivers to dimensional requirements of this Zoning Bylaw may be granted by the Development Review Board (DRB) after making findings on the Waiver Criteria below. The burden of proof is on the applicant to demonstrate that the waiver requested meets the Waiver Criteria.

**Waiver Criteria:**

1. The waiver is helpful or necessary to allow for reasonable use of the property.
2. The waiver is the minimum reduction in the dimensional requirement that will enable the reasonable use of the property.
3. Any adverse effects of the waiver are mitigated by design, screening, or other remedies.
4. The need for a waiver was not created by past decisions of the applicant.
5. The proposed project will still conform to the Town Plan.
6. The proposed project will still conform to the purpose of the zoning district (as stated in Sections 205-240 of these Bylaws) in which the land development is located.
7. The proposed project will not have an undue adverse effect on the following:
  - a. Surrounding properties and property values
  - b. The character and aesthetics of the neighborhood
  - c. Traffic patterns and circulation
  - d. Public health, safety, and utility services
  - e. Stormwater management
  - f. Water and wastewater capacity.

Waivers using the Variable Lot Size / Maximum Lot Number method for land division permits are allowed in CN, PL, and RUR districts and only for residential uses. Criteria 2 above may be waived and the following additional requirements must be met:

8. No land division shall be smaller than 2 acres. Lot width and depth minimums shall not be less than 200 feet.
9. The land division must be designed to prioritize preservation of undeveloped land, agricultural land, wetlands, waterways, and wildlife habitat, where appropriate.
10. The maximum number of lots allowed by land division shall be determined by dividing the total acreage of the original lot by the minimum lot size of the zoning district.

11. The DRB shall attach conditions to the land division permit limiting future subdivision to the Maximum Lot Number minus the number of lots created by the land division permit. Any subsequent division of land shall be based on this new Maximum Lot Number.
12. The Land Division Permit and the Development Review Board's decision including the new maximum lot number shall be recorded in the Dummerston Land Records.

[Example: A 46-acre lot in CN district would be allowed a maximum of 4 lots by subdivision, based on a 10-acre minimum lot size. If a waiver allows a land division permit for 2 lots of 2 acres each, the Maximum Lot Number for the remaining 42-acre lot would be 2.]

### **Section 257 Waiver Application and Review Process**

1. Application to the DRB for a waiver shall be made as part of an application for one of the DRB reviews listed in Section 715 of these Bylaws or as a separate application if one of the reviews listed in Section 715 is not required for the application.
2. The application shall come to the DRB either from the applicant as an appeal of a decision of the Administrative Officer or a referral from the Administrative Officer.
3. Requests for waivers are considered by the DRB. Any request for a waiver will be warned and a public hearing held, subject to procedures set forth in Section 717 of these bylaws.
4. The DRB shall consider the opinion of abutters in deciding whether to grant the waiver.
5. In granting a decision in favor of the applicant, the DRB may attach reasonable conditions, including mitigation by design, screening, or other remedy.
6. Any waiver granted under this section shall be limited to the specific property to which it has been granted. A waiver on one property shall not be construed as a general guideline or standard for any other property.
7. Expiration: Waiver approvals shall expire by limitation if work is not completed within two (2) years from the date they are approved. All work must be completed as shown on any approved plan before the expiration date. One year extensions of this deadline may be granted by the Administrative Officer prior to expiration. Requests for extensions must be made in writing.
8. Appeals: Any request for a Waiver that is denied may be appealed subject to Section 716 of this bylaw.

## **ARTICLE 3: RIPARIAN AREAS**

### **Section 300 Establishment of Riparian Areas**

In accordance with §§ 4302(a) and 4411 of the Act, areas designated on the Riparian Area Map as having significant resource value within the Town are subject to additional regulations and conditions contained in this Article.

### **Section 301 Riparian Area Map**

The Riparian Area Map, based on Town Plan Maps, designates the location of Riparian Areas, and shall be used in conjunction with the other Zoning Maps in this Bylaw. Questions as to whether a proposed use falls within a Riparian Area shall be resolved by the Development Review Board upon appeal.

### **Section 302 Purpose of Riparian Areas**

In addition to the purposes of the zoning districts that underlie these areas, the purposes for the designation of Riparian Areas are to provide for the beneficial use of public waters and adjacent lands, to provide for a reasonable balance between resource protection and resource use and to protect those areas that are unsuitable for land development, and as follows:

1. To further the purposes of this Bylaw and the Dummerston Town Plan by controlling land development that affects significant resource sites, the protection, conservation and wise use of which are important to the health, safety and welfare of the public.
2. To encourage the wise use, conservation and protection of significant resources and adjacent lands within the Town, and to minimize the waste or irretrievable loss of significant resource values.
3. To provide reasonable standards for the review, modification and approval or disapproval of proposals for development within significant resource sites.

### **Section 303 Development within Riparian Areas**

The following procedures, standards and conditions shall apply to all "Land Development" proposed within a Riparian Area, with the exception of agricultural, forestry or single and two-family residential uses. With the above exceptions, development within or contiguous to a Riparian Area shall require Conditional Use and Site Plan review and approval by the Development Review Board as set forth in Sections 725-727 of this Bylaw. Conditional Use review shall be made in accordance with the standards of this Article, in addition to standards specified elsewhere within this Bylaw.

### **Section 320 Riparian Areas**

Riparian Areas are lands adjacent to perennial flowing surface waters.

**Section 323 Designation of Riparian Areas**

Riparian Areas include:

1. Lands falling within 500 feet of the Connecticut and West Rivers
2. Lands falling within 250 feet of the following brooks:
  - a. Falls Brook
  - b. Stickney Brook
  - c. Canoe Brook
  - d. Crosby Brook
  - e. Salmon Brook
  - f. Furnace Brook

All as shown on the Riparian Area Map. The applicable distance shall be measured from the normal mean watermark of the specific waterbody.

**Section 324 Riparian Area Regulations**

1. Description
  - a. Connecticut River
  - b. West River
  - c. Falls Brook
  - d. Stickney Brook
  - e. Canoe Brook
  - f. Crosby Brook
  - g. Salmon Brook
  - h. Furnace Brook
2. Use & Lot Size is as specified in underlying Zoning District.
3. Setback from Normal Mean Watermark is 50 feet.
  - a. Vermont Agency of Natural Resources requires a setback for onsite sewage (50 feet in 2014)
4. Boathouses, docks and landings, and energy producing facilities shall be exempt from the setback requirements for land development.
5. Within Riparian Areas, the disposal of garbage or other solid waste, including the expansion of existing facilities, the disposal, storage or processing of materials that are pollutants, buoyant, flammable, poisonous, explosives or which could be otherwise injurious to human, animal, fish or aquatic life, are prohibited from these Areas unless proper containment is provided.

## **ARTICLE 4: FLOOD HAZARD AREA REGULATIONS**

### **Section 400 Statutory Authorization**

To affect the purpose of 10 V.S.A. Chapter 32, and in accord with section 4424 of the Act, there are hereby established Flood Hazard Area Regulations for Special Flood Hazard Areas in the Town of Dummerston.

### **Section 405 Statement of Purpose**

It is the purpose of these Regulations to promote the public health, safety, and general welfare, to prevent increases in flooding caused by the uncontrolled: development of lands in flood hazard areas, to minimize losses due to flooding, and to maintain the Town's participation in the National Flood Insurance Program.

### **Section 410 Lands to which these Regulations Apply**

These regulations shall apply for development in all areas in the Town of Dummerston VT, identified as 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, which are hereby adopted by reference and declared to be part of these regulations.

### **Base Flood Elevations and Floodway Limits**

1. Where available, i.e., Zones A1-A30, AE, and 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 and enforce the provisions of these regulations.
2. In areas where base flood elevations and, floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps; i.e., Zone A; base flood elevation and floodway provided by FEMA or information available from State or Federal agencies or other sources, shall be obtained and reasonably utilized to administer and enforce the provisions of these regulations.
3. Until a regulatory floodway has been designated, no new construction, substantial improvements, or other development shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community.

**Section 420 Application Requirements**

Permit application requirements shall include:

1. Two (2) copies of plans drawn to scale showing the nature, location, dimensions and elevation of the lot.
2. Existing and proposed structures including the elevation of the lowest habitable floor including basement and confirmation as to whether such structures contain a basement.
3. Proposed fill and/or storage of materials.
4. Proposed flood proofing measures and the level to which any structure will be flood-proofed.
5. The relationship of the proposal to the location of the channel.
6. The extent of the flood hazard area and the base flood elevation utilizing the best information available.
7. New subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions) that are greater than 50 lots or 5 acres, whichever is the lesser, shall include base flood elevation data.

**Section 425 Procedures****Review Procedures**

1. Land Development including the construction, reconstruction, conversion, relocation or substantial improvement in any building or other structure, or of any mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials, subdivision or extension of use of land in the flood hazard area may be permitted only by approval of the Development Review Board as a Conditional Use in accordance with the standards and requirements of this Article.
2. Prior to issuing a permit for the construction of new buildings, the substantial improvement of existing buildings or for development in the floodway, a copy of the application shall be submitted by the Administrative Officer to the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Vermont Department of Environmental Conservation, River Management Section in accordance with 24 V.S.A. 4424. A permit may be issued only following receipt of comments from the Agency or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.
3. Adjacent communities and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section shall be notified at least 30 days prior to issuing any permit for the alteration or relocation of a watercourse and copies of such notification shall be submitted to the Administrator of the National Flood Insurance Program. Any permit issued shall assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
4. Proposed development shall be reviewed to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or state law.

**Section 430 Development Standards****Floodway Areas**

1. Development within the regulatory floodway, as determined by Section 415(2) is prohibited unless it has demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice by a registered professional engineer certifying that the proposed development will not result in any increase in flood levels during the occurrence of the base flood.
2. Junkyards and storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway. If prescribed by the zoning ordinance district regulations, these facilities may be permitted outside of the floodway, provided the area is filled to at least one foot above the base flood elevation and the development meets all applicable requirements of the zoning ordinance.

**Fringe Areas**

1. All development: All development shall be designed to assure (i) such proposals minimize flood damage with-in the flood prone area (ii) public facilities and utilities are located and constructed to minimize or eliminate flood damage, and (iii) adequate drainage to reduce exposure to flood hazards.
2. All development: All development shall be reasonably safe from flooding and be (i) designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood, (ii) be constructed with materials resistant to flood damage, (iii) be constructed by methods and practices that minimize flood damage, and (iv) be 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.
3. Watercourse Carrying Capacity: The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
4. Sanitary Sewage and Water Supply: New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
5. On-Site Waste Disposal Systems: Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. The lowest elevation of the wastewater distribution field shall be located at least one foot above the base flood elevation.
6. Residential Development:
  - a. The lowest floor, including basement, of all new construction and existing buildings to be substantially improved that are located in Zone A1-30, AE, and AH shall be at or above the base flood elevation. New construction and existing buildings to be substantially improved that are located 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 in the feet on the community's FIRM or at least two feet if no depth number is specified.
  - b. Manufactured homes to be placed and existing manufactured homes to be substantially improved that are:

- i. located in a new manufactured home park or subdivision, outside of a manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in a manufactured home park or subdivision which has incurred substantial damage from a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement during the occurrence of the base flood.
  - ii. located in an existing manufactured home park, where elevating a replacement home to or above base flood elevation is not possible, the lowest floor shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 48 inches in height above grade and be securely anchored to an adequately anchored system to resist floatation, collapse, and lateral movement.
- c. Residential construction located within Zones AH and AO shall have adequate drainage paths around structures on slopes, to guide floodwater around and away from the proposed structures.

**Non-Residential Development:**

- a. New construction located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation. New construction located 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 in the feet on the community's FIRM or at least two feet if no depth number is specified.
- b. Existing buildings to be substantially improved located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation or together with attendant utility and sanitary facilities be designed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Existing buildings to be substantially improved located in AO zones shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM or at least two feet if no depth number is specified or together with attendant utility and sanitary facilities be designed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- c. A permit for a building proposed to be floodproofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.
- d. Non-residential construction located within Zones AH and AO shall have adequate drainage paths around structures on slopes, to guide floodwater around and away from the proposed structures.

**Subdivisions:** Subdivisions (including manufactured home parks) shall be designed to assure:

- a. such proposals minimize flood damage within the flood-prone area,
- b. public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
- c. adequate drainage is provided to reduce exposure to flood hazards.

**Enclosed Areas Below the Lowest Floor:**

- a. Enclosed areas below the lowest floor which are subject to flooding shall be used solely for parking of vehicles, building access, or storage.
- b. All new construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

**Recreational Vehicles:** Recreational Vehicles placed on sites with special flood hazard areas shall either:

- a. be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use, or
- b. be permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in section B.2.(b).

**Accessory Structures:** A small accessory building (not exceeding 64 square feet) that represents a minimal investment need not be elevated to the base flood elevation provided the building:

- a. shall not be used for human habitation and the building must only be used for parking and/or storage;
- b. shall be designed to have low flood damage potential and be constructed using flood resistant materials below the base flood elevation;
- c. shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and have required openings to allow floodwaters in and out;
- d. shall be adequately anchored to prevent flotation, collapse, and lateral movement; and
- f. shall have all building utility equipment (such as electrical and heating) elevated or floodproofed.

## **Section 440 Administration, Variances, and Enforcement**

440.1 Except as provided for below, these regulations shall be administered and enforced according to the provisions of Article 7 of this Zoning Bylaw.

- 440.2 Application for permit or land development in a flood hazard area shall be made to the Administrative Officer, who shall transmit such application to the Development Review Board for review and consideration as provided by these Regulations.
- 440.3 The Administrative Officer shall maintain a record of:
1. the elevation, consistent with the datum of the elevation of the NFIP maps for the community of the lowest floor, including basement, of all new or substantially improved structures, and whether or not such structures contain a basement
  2. the elevation, consistent with the datum of the elevation of the NFIP maps for the community to which the structure was flood-proofed.
  3. all permits issued for development in areas of special flood hazard
  4. all flood-proofing certifications required under this regulation; and
  5. all variance actions, including justification for their issuance
- 440.4 Variances shall be granted by the Development Review Board only in accordance with the provision of 24 V.S.A. Section 4469 and in accordance with the criteria for granting variances found in 44 CFR, Section 60.6 of the National Flood Insurance Program regulations.
- 440.5 The Secretary of the Development Review Board shall notify the applicant that:
1. The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and
  2. Report such variances issued in its annual report to the Federal Insurance Administrator.
- 440.6 It shall be the duty of the Administrative Officer to enforce the provisions of this ordinance. Whenever any development occurs contrary to these flood hazard area regulations, the Administrative Officer, in his/her discretion, shall institute appropriate action in accordance with the provisions of 24 V.S.A. §1974a or pursuant to 24 V.S.A. § 4451 or 24 V.S.A. § 4452 to correct the violation. No action may be brought unless the alleged offender has had at least a seven-day warning notice by certified mail. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation after the seven-day notice period and within the next succeeding twelve months. The seven-day warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days.

If the structure is still noncompliant after the opportunity to cure has passed, the Administrator Officer shall submit a declaration to the Administrator of the NFIP requesting a denial of flood insurance. Section 1316 of the National Flood Insurance Act of 1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations. The declaration shall consist of: (a) the name of the property owner and address or legal description of the property sufficient to confirm its identity or location, (b) a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance, (c) a clear statement that the public body making the declaration has authority

to do so and a citation to that authority, (d) evidence that the property owner has been provided notice of the violation and the prospective denial of insurance, and (e) a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

#### **Section 445 Warning of Disclaimer of Liability**

These regulations do not imply that areas outside the flood hazard area or land uses permitted within such districts will be free from flooding or flood damages. These regulations shall not create liability on the part of any Town official or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.

#### **Section 450 Precedence of These Regulations**

The provisions of these regulations shall not in any way impair or remove the necessity of compliance with any other applicable ordinances. Where these regulations impose a greater restriction, the provisions of these regulations shall take precedence.

#### **Section 455 Definitions**

The following definitions shall apply to the Flood Hazard Regulations and shall not be affected by the provisions of any other regulation of the Town of Dummerston:

**BASE FLOOD** - The flood having a one percent chance of being equaled or exceeded in any given year.

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

**BASEMENT** - Any area of the building having its floor elevation (below ground level) on all sides.

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

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

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

**FLOOD INSURANCE RATE MAP (FIRM)** - An official map of a community, on which the Federal Insurance 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.

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

**FLOODWAY** - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

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

**LOWEST FLOOR** - 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 storage in an area other than a basement area is not considered a building's lowest floor; Provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

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

**MANUFACTURED HOME PARK OR SUBDIVISION** - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**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.

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

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

**SPECIAL FLOOD HAZARD AREA** - The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated a Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the Flood Insurance Rate Map (FIRM), Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/AI-30, AR/AE, AR/AO, AR/AH, AR/A, VO or V1-30, VE, or V. For purposes of these regulations, the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard”.

**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** - For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *Structure*, for insurance purposes, means: (a) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; (b) A manufactured home (“a manufactured home,” also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or (c) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is

regulated under the community's floodplain management and building ordinances or laws. For the latter purpose, "structure" does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in (c) of this definition, or a gas or liquid storage tank.

**SUBSTANTIAL DAMAGE** - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

**VIOLATION** - The failure of a structure or other development to be fully compliant with the community's floodplain management 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 5: PLANNED UNIT DEVELOPMENT**

### **Section 500 Planned Unit Development (PUD)**

In accordance with the provisions set forth in § 4417 of the Act, and where permitted in the zoning district, the modification of the district regulations by the Development Review Board is permitted simultaneously with subdivision plat approval, or, in the absence of subdivision regulations, site plan approval, under the following procedures.

### **Section 501 Purpose**

The purpose of the planned unit development (PUD) provision is to encourage new communities, innovation in design and layout, and more efficient use of land; to facilitate the adequate and economic provision of streets and utilities; to preserve the natural and scenic qualities of open land; to provide for a mixture of compatible uses at different densities; and to provide for the development of existing lots which because of physical, topographical or geological conditions could not otherwise be developed.

### **Section 502 Application Procedure**

A site plan shall be submitted to the Development Review Board showing the location, height and spacing of buildings, open space and their landscaping, streets, driveways and off-street parking spaces, unique natural or man-made features, and physical conditions of the site, accompanied by a statement setting forth the nature of all proposed modifications, changes or supplementations of existing zoning regulations.

### **Section 503 Permitted Uses**

The PUD shall consist only of uses, or mix of uses, that are permitted or conditionally permitted in the underlying district in which the PUD is located.

### **Section 504 General and Specific Standards for Review**

The following general and specific standards shall be met in order for the Development Review Board to approve the application.

1. The PUD is consistent with the Town Plan.
2. The overall density of the project shall not exceed the number of residential, commercial, industrial or other units permitted in the Development Review Board's judgment if the land were subdivided into lots in accordance with the district regulations.
3. The PUD is an effective and unified treatment of the development possibilities on the project site, and the development plan makes appropriate provision for preservation of streams and streambanks, steep slopes, wet areas, soils unsuitable for development, forested areas, and unique natural and manmade features.
4. Mixed uses are arranged so as to be compatible and insure visual and aural privacy for residents of the project.
5. The development plan is proposed over a satisfactory period of time in order that adequate town facilities and services may be assured in a timely manner.
6. Minimum density and building area coverage requirements of the district are met.
7. In order to ensure adequate privacy for existing or permitted uses adjacent to the PUD, setbacks required for the district shall serve as minimum requirements for the periphery of the project and screening may be required.

8. All other zoning requirements of the district, except for those that specifically may be waived or varied under the provisions of this section shall be met.
9. Conditional uses allowed within the district for which the PUD is planned will complement the permitted uses and will not exceed the permitted uses in numbers of principal buildings or in total land area required.
10. PUD shall meet the minimum standards of Sections 721 and 722.

**Section 505 Open Space**

If the PUD results in lands available for parks, recreation, open space or other town purposes, the Development Review Board as a condition of its approval may establish such conditions on the ownership, use and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes.

## **ARTICLE 6: GENERAL REGULATIONS**

### **Section 600 Required Provisions and Prohibited Effects of the Act**

The following special provisions are established in accordance with Section 4412 of the Act.

### **Section 601 Existing Small Lots**

Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of this Bylaw may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth acre in area with a minimum width or depth dimension of forty feet.

In all districts, except Settlement Area districts, if a lot not conforming to the minimum lot size requirements subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot. However, a nonconforming lot shall not be deemed merged and may be separately conveyed if all the following apply:

1. The lots are conveyed in their preexisting, nonconforming configuration.
2. On the effective date of any bylaw, each lot was developed with a water supply and wastewater disposal system.
3. At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner.
4. The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 V.S.A. Chapter 64.

It shall be permissible to enlarge individual lots or parcels of land in any Zoning District by the acquisition of a parcel or lot of land immediately adjacent and adjoining the original lot or parcel, even though the lot or parcel being acquired and added does not meet the minimum lot size requirement or other standards that may be in effect within that district, since the lot or parcel to be acquired will no longer be in individual and separate and non-affiliated ownership from surrounding properties and a new lot or parcel consisting of the combined area of both lots or parcels will be created by the acquisition. The acquired non-conforming parcel will be deemed merged with the existing parcel unless it meets with the exceptions stated above.

### **Section 602 Required Frontage on, or Access to, Public Roads or Waters**

Land development may be permitted only if there is adequate means of access, either frontage on a maintained public road (Class 1, 2, 3) or, with the approval of the DRB granted in accordance with section 722 of the bylaw, access by means of a permanent easement or right of way to such a public road, or to public waters. Access easements or rights-of-way shall not be less than 20 feet in width. If serving more than two lots or uses, the DRB may require a right-of-way not to exceed 40 feet in width to ensure safe and adequate access. Access on a state highway must be permitted by Vermont Agency of Transportation.

**Section 603 Equal Treatment of Housing**

1. No zoning regulation shall have the effect of excluding mobile homes, modular housing, or other forms of prefabricated housing from the town except upon the same terms and conditions as conventional housing is excluded.
2. No zoning regulation shall have the effect of excluding from the town housing to meet the needs of the population as determined in section 4382(c) of the Act.
3. No provision of this chapter shall be construed to prevent the establishment of mobile home parks pursuant to Chapter 153 of Title 10.
4. No Zoning Regulation shall have the effect of excluding as a permitted use one Accessory Dwelling unit that is located within or appurtenant to a single-family dwelling. An Accessory Dwelling unit means a distinct unit that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all of the following:
  - a. The property has sufficient wastewater capacity.
  - b. The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling, or 1000 square feet, whichever is larger.
  - c. Applicable setback, coverage, and parking requirements specified in the bylaws are met.

Notwithstanding the provisions above, the creation of an accessory dwelling unit will require conditional use approval when the unit is more than 1000 square feet and greater than 30 percent, but less than 50 percent, of the total habitable floor area of the single-family dwelling.

5. A residential care home or group home to be operated under State licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A. § 4501, 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 existing or permitted such home. (24 V.S.A. § 4412(1)(G))

**Section 604 Protection of Home Occupations**

In accordance with the Act [§4412(4)] no provision of these regulations shall infringe upon the right of any resident to use a minor portion of a dwelling unit for an occupation that is customary in residential areas and that does not have an undue adverse effect upon the character of the residential area in which the dwelling is located.

**Section 605 Home Business**

**Home Business** is defined as: any business operated out of the principal dwelling or accessory structure of the business owner or operator, where the business aspect is secondary to the residential use and does not change the residential character of the property or the surrounding area.

For purposes of this Section, Home Business is considered an accessory use.

Exceptions: Farms and Accessory On Farm Businesses are not regulated under this section of the Bylaw. See 24 V.S.A. § 4412(11), 24 V.S.A. § 4413(d).

To this end, the following three (3) categories of home businesses are allowed in accordance with the associated standards.

**(A) Home Business - no zoning permit required.**

No permit shall be required for a person with a home business provided it is confined entirely to an area within the principal dwelling or accessory structure and it meets the following standards:

1. The home business is conducted by residents of the dwelling unit and involves no more than two non-resident employees on-site.
2. The home business does not involve the conduct of business with more than five on-site visits from clients or customers per day.
3. The home business does not involve the outside display or outside storage of goods.
4. The home business will not generate traffic, including but not limited to delivery truck traffic, in excess of volumes suitable for all roads providing access to the site.
5. Off-street parking conforms with the standards set forth in Section 620.
6. Signs must conform to requirements in Sections 665-670.
7. The home business conforms to all performance standards under Section 660 - Storage of hazardous waste or materials shall comply with the Vermont Hazardous Waste Management Regulations.
8. The aggregate of all home businesses in a single dwelling unit does not exceed restrictions 1 through 7.
9. Any proposed expansion of the home business may require a zoning permit for the home business under this section.

**(B) Home Business – zoning permit required.**

A home business which does not meet one or more of the standards set forth in subsection (A) may be permitted with the approval of the Zoning Administrator in accordance with Section 703 and in accordance with the following provisions:

1. The home business is conducted by residents of the dwelling unit and involves no more than five non-resident employees on-site.
2. The home business does not involve the conduct of business with more than twenty on-site visits from clients or customers per day.
3. The home business does not involve the outside display or outside storage of goods, materials, or equipment visible from the roadway or from adjacent properties.
4. The home business will not generate traffic, including but not limited to delivery truck traffic, in excess of volumes suitable for all roads providing access to the site.
5. Off-street parking conforms with the standards set forth in Section 620.
6. Signs must conform to requirements in Sections 665-670.
7. The home business conforms to all performance standards under Section 660 - Storage of hazardous waste or materials shall comply with the Vermont Hazardous Waste Management Regulations.

8. Retail sales are not conducted, with the exception of the sale of goods related to the home business or with the exception of goods created on the premises.
9. The aggregate of all home businesses in a single dwelling unit does not exceed restrictions 1 through 8.
10. The zoning permit clearly states that the use is limited to a home business, approved in accordance with the above provisions and meets the definition of home business pursuant to this bylaw. Any proposed expansion of the home business beyond that permitted will require a new zoning permit for the home business under this section.

**(C) Home Business – conditional use permit required.**

Home businesses outlined below may be permitted in designated zoning districts and are subject to conditional use approval of the Development Review Board under Section 715 and the following provisions:

1. The home business is conducted by residents of the dwelling unit and involves no more than ten non-resident employees on-site.
2. In addition to other conditions, the DRB may limit the hours of operation as deemed necessary to minimize adverse impacts to neighboring properties and protect the character of the area.
3. Storage or display of goods, materials, or equipment visible from the roadway or from adjacent properties may be allowed as specified in the conditional use permit, with screening as appropriate.
4. The home business will not generate traffic, including but not limited to delivery truck traffic, in excess of volumes suitable for all roads providing access to the site.
5. Off-street parking conforms with the standards set forth in Section 620.
6. Signs must conform to requirements in Sections 665-670
7. The home business conforms to all performance standards under Section 660 - Storage of hazardous waste or materials shall comply with the Vermont Hazardous Waste Management Regulations.
8. Retail sales may be conducted as specified in the conditional use permit.
9. The aggregate of all home businesses in a single dwelling unit does not exceed restrictions 1 through 8.
10. The zoning permit clearly states that the use is limited to a home business, approved in accordance with the above provisions and meets the definition of home business pursuant to this bylaw. Any proposed expansion of the home business beyond that permitted will require a new conditional use permit for the home business under this section.

**Section 611 Buildings and Uses on Lots**

There shall be only one principal building and one principal use on a lot unless otherwise approved under the Planned Unit Development provisions of these Regulations, or as a Conditional Use approved by the Development Review Board, or as provided under the provisions of Section 605.

**Section 612 Abandonment of Structures**

Within one year after any building or structure has been demolished, abandoned, or destroyed, all structural material shall be removed from the site, and the excavation thus remaining shall be covered over or filled to the normal grade.

**Section 615 Setback Requirements**

The following minimum setback requirements shall apply to all Zoning Districts except the Settlement Area Districts which have their own setback requirements as provided in Section 230, and except along watercourses as provided in Sections 245 and 324.

**1. Setbacks from Roads**

- a. Structures shall be set back a minimum of 50 feet from the centerline of all roads, except where the road right-of-way is greater than 50 feet in width in which case the minimum setback shall be 25 feet from the edge of the right-of-way. This requirement shall apply to all public and private roads, except private vehicular rights of way serving less than three properties. If the Town Road Records or the State Highway Department files do not clearly state the exact location and/or width of the highway or right-of-way in question, the front yard setback requirement shall be measured from the center line of the roadway as presently traveled.

**2. Setbacks from Property Lines**

- a. Structures shall be set back a minimum of 40 feet from all property lines other than those along roadways as provided in Subsection 1 above.

### **Section 616 Exemptions to Setback Requirements**

**Small accessory structures** less than or equal to 200 square feet of floor area and 12 feet or less in height are allowed within setback areas other than those along roadways as provided in Section 615 as long as they are not closer than six (6) feet to the property line. These may not be converted into accessory dwellings, and are prohibited within any 50' streambank buffer.

**Fences** and brick or stone walls are exempt from setback requirements; however, those exceeding six feet in height, require a Zoning Permit and are subject to Site Plan Approval by the DRB.

**Handicap ramps** are exempt from setback requirements provided that they do not obstruct public rights-of-way, or interfere with corner visibilities or sight distances for vehicular traffic. (If there is a question, the final determination shall be made in consultation with the Road Foreman.)

### **Reduction of Setback Requirements for small lots**

The Administrative Officer may approve a zoning permit application for the construction of accessory structures for permitted uses on a lot that does not comply with the minimum lot size of two (2) acres or less, provided that all of the following criteria are met:

1. The percentage by which the setback is reduced from the minimum setback required shall not exceed the percentage by which the lot size is less than the minimum lot size. For example, if the lot area is 60% of the minimum lot size, the required setback(s) may be reduced to 60% of the minimum setback.
2. The administrative officer may not allow any setbacks less than 10 feet from abutting property lines or 30 feet from the public road center.

**Section 620 Off-Street Parking Requirements**

Off-street parking spaces shall be provided as set forth below. A required driveway shall be at least twenty feet clear in width, except for one and two family dwellings. **A parking space shall be at least nine feet by twenty-two feet.**

1. Residential: Two parking spaces for every dwelling, Professional residences-office: one parking space, plus one additional parking space for every three hundred square feet of office space.
2. Hotel, Country Inn, Bed & Breakfast, Short-Term Rental: One space for every guest room plus additional space for facilities with eating establishment (See Subsection 7 below).
3. Dormitory, Nursing Home, Hospital: One space for every two beds.
4. Places of Public Assembly: One parking space for every four seats; where there are no seats, one parking space shall be provided for every two hundred square feet of floor area.
5. Business, Professional and Medical Offices: One space for every two hundred square feet of office space.
6. Commercial, Business and Unspecified Uses: One parking space for every motor vehicle used in the business, plus one parking space for every two hundred square feet of floor area.
7. Restaurant: One parking space for every 150 square feet of floor area.
8. Industrial, Wholesale, Warehouse, Storage, Freight and Trucking Uses: One parking space for every motor vehicle used in the business; one parking space for every two employees.
9. Other Uses: As required by the Development Review Board under Site Plan Approval.
10. The Development Review Board may require additional off-street parking spaces for any use if they find that minimum spaces are not sufficient.
11. The Development Review Board may permit fewer off-street parking spaces for any use if they find that the required number of spaces is excessive.

**Section 625 Off-Street Loading Space Requirements**

For every building hereafter erected, altered, extended or changed in use for the purpose of business, trade, or industry there shall be provided off-street space for loading and unloading of vehicles as set forth below:

1. Motels, Hospitals, Commercial, Business, Service and Industrial Establishments: One off-street loading space for every ten thousand (10,000) square feet of floor area.
2. Wholesale, Warehouse, Freight and Trucking Uses: One off-street loading space for every seven thousand five hundred (7,500) square feet of floor area.
3. The Development Review Board may require under Site Plan Approval additional loading area, if it finds that minimum requirements are not sufficient.

**Section 630 Driveways**

All driveways are to be located at least one hundred (100) feet from a street or highway line intersection for all uses except one- and two-family residential uses.

No driveway shall be constructed so as to allow surface drainage to pass on to town streets or highways. Nor shall any driveway be constructed so as to interfere with proper road drainage.

**Section 631 Obstruction of Vision**

In all districts, on a corner lot, within the triangular area formed by the intersection of two street property lines and a third line joining them at points twenty-five feet away from their intersection, there shall be no obstruction to vision between the height of three feet and ten feet above the average grade of each street.

**Section 635 Landscaping Requirements**

Landscaping, where required under this Bylaw, will be installed and maintained in front, side and rear yards and shall take the form of shade trees, deciduous shrubs, evergreens, well-kept grassed areas or ground cover, the species of which shall be approved by the Development Review Board.

Following are the minimum landscaping requirements:

1. Where any non-residential land use abuts a residential land use, a strip of land at least twenty-five (25) feet in width shall be maintained as a landscape and utility area in the front yard, side yards and rear yard, unless waived by the Development Review Board.
2. Commercial and industrial uses shall provide for a strip of land at least fifteen (15) feet in width which shall be maintained as a landscaped area in the front, side and rear yards, unless waived by the Development Review Board.
3. In any Planned Unit Development landscaping shall be provided as required by the Development Review Board.

**Section 640 Erosion and Sediment Control**

The smallest practical area of land should be exposed at any one time during development. Lands should not be left exposed during the winter months. Where necessary, temporary vegetation and/or mulching and structural measures may be required to protect areas exposed during the development. Sediment basins shall be installed and maintained during development to remove sediment from run-off water from land undergoing development.

Development shall be accomplished so as to minimize adverse effects upon the natural or existing topography and soil conditions and to minimize the potential for erosion. Grading and storm drainage plans shall maximize the amount of drainage which can be percolated into the soil and minimize direct runoff into adjoining streets, properties, and watercourses or waterbodies. Drainage swales and ditches shall be designed, constructed, and kept in good repair to minimize erosion and sedimentation.

**Section 645 Grading**

No grading, cut or fill shall be carried out in any district which leaves the slope of the finished grade in excess of 2:1. Lesser grade may be required on soils especially susceptible to erosion.

**Section 650 Extraction of Soil, Sand or Gravel**

The removal of soil, sand or gravel for sale, except when incidental to construction of a building on the same premises shall be permitted only upon approval of a Plan for the rehabilitation of the site by the Development Review Board after public hearing and the posting of a bond to assure rehabilitation in accordance with section 722. In said districts the following provisions shall apply:

1. The removal of all materials shall be conducted so as to result in the improvement of the land, having due regard to the contours in the vicinity such as leveling slopes and removing hills. The digging or creating of pits or steep slopes shall not be permitted, unless provision is made to refill such pit in a manner satisfactory to the Development Review Board.
2. The excavation operation sites shall be graded smooth and left in a neat condition. Cut slopes and spoil banks shall not-be allowed to remain. The operation site shall be fertilized, mulched and re-seeded so as to establish a firm cover of grass or other vegetation sufficient to prevent erosion to the satisfaction of the Development Review Board.
3. All surface drainage affected by excavation operations shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, street or private property. All provisions to control natural drainage water shall meet with the approval of the Development Review Board.
4. No excavation, blasting or stock piling of materials shall be located within two hundred feet of any street or other property line.
5. Stripping of topsoil for sale or for use on other premises, except as may be incidental to a construction project, shall be prohibited.
6. The Development Review Board may attach any additional conditions as it may find necessary for the safety and general welfare of the public.

**Section 655 Dumping**

The dumping of refuse and waste or excavation material for any reason is prohibited in any district.

**Section 660 Performance Standards**

No commercial or industrial land development shall be commenced in any manner so as to create dangerous, injurious, noxious or otherwise objectionable conditions in such a manner or in such amount as to adversely affect the reasonable use of the surrounding area or adjoining properties. The following specific standards are set forth to implement this purpose. The Development Review Board shall determine whether the proposed use meets the standards. The burden of proof to show that proposed land development will comply with these standards shall fall on the applicant.

1. **Noise:** No noise which is excessive at the property line and represents a significant increase in noise levels in the vicinity of the development, so as to be incompatible with the reasonable use of the surrounding area, shall be permitted.
2. **Vibration:** No proposed development use, under normal conditions, shall cause or result in any noticeable, clearly apparent vibration of or on the property of another landowner.
3. **Smoke, dust, odor, noxious gases, or other forms of air pollution:** No proposed development or use, under normal conditions, shall cause or result in smoke, dust, odors, noxious gases, or other forms of air pollution, which constitute a nuisance to any other landowner.
4. **Heat, cold or moisture:** No proposed development or use, under normal conditions, shall cause, create or result in releases of heat, cold, moisture, mist, fog, precipitation, or condensation beyond the property lines of the property on which located or to a height likely to be detrimental to public safety, health, or welfare.
5. **Electronic signals or Emissions:** No proposed development or use, under normal conditions, shall create, transmit, or release any electronic emission or signal which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals beyond the lines of the property on which located.
6. **Glare, lights, reflections:** No proposed development or use shall create, cause, or result in glare, lights, or reflections which constitute a nuisance to other property owners or tenants or which are detrimental to the public safety, health or welfare.
7. **Liquid or solid wastes or refuse:** No proposed development or use shall create, cause or result in liquid or solid wastes or refuse which cannot be disposed of by available or existing methods without any undue burden on town facilities.
8. **Fire, safety, explosive, or other hazard:** No proposed development or use shall create, cause or result in an undue fire, safety, explosive or other hazard which significantly endangers other property owners or which results in a significantly increased burden on town facilities.

**Section 665 Outdoor Advertising Signs**

An Outdoor Advertising Sign is any display, device or representation which is visible from any highway or other public right-of-way and is designed or used to advertise or direct attention to any business, profession, commodity, service, or entertainment.

Outdoor Advertising Signs shall be deemed Land Development as herein defined, shall require a zoning permit before being erected, constructed or structurally modified and, with the exception of Home Business (see 5b.), must be approved by the Development Review Board under Sections 725-727 of this Bylaw.

Outdoor Advertising Signs are regulated in 10 V.S.A., Chapter 21 which also provides for certain types of signs not regulated in this bylaw, such as Official Business Directional Signs, municipal signs, and temporary signs.

**Section 669 Permit Criteria for Outdoor Advertising Signs**

1. The sign must be located on the same premises as the business, profession, commodity, service or entertainment which is advertised.
2. The sign must have as its purpose the identification of the activity or its products or services, rather than the purpose of general advertising.
3. The premises shall be that part of the owner's or occupant's real property to which the public is invited and on which the business, profession, commodity, service or entertainment to which the sign directs attention is carried on, sold or offered.
4. Pursuant to 10 V.S.A., Chapter 21, the sign shall not be located more than fifteen hundred feet from a main entrance from that highway to the activity or premise advertised. The fifteen hundred foot distance shall be measured along the center line of the highway or highways between the sign and a main entrance. A main entrance shall be a principal, private roadway or driveway which leads from a public highway to the activity or premises advertised.
5. The sign must comply with the following limits to size and number. Specified dimensions shall be applied to the sign panel excluding hardware and supporting frame. Area dimensions shall be applied to the sign panel regardless of whether one or both sides are used for advertisement.
  - a. In RC and CI zoning districts, one sign per each premises, not exceeding 32 square feet. The premises may contain more than one sign necessary in the conduct of business, such as but not limited to: parking, fire lanes, delivery and entrance signs not to exceed 6 square feet each.
  - b. One sign per each premises for Home Business not exceeding 6 square feet, in all districts except RC and CI. The premises may contain more than one sign necessary in the conduct of business, such as but not limited to: parking, fire lanes, delivery and entrance signs not to exceed 6 square feet each.
  - c. One sign per each premises for non-residential use not exceeding 32 square feet, in all districts except RC and CI. The premises may contain more than one sign necessary

in the conduct of business, such as but not limited to: parking, fire lanes, delivery and entrance signs not to exceed 6 square feet each.

**Section 670 Outdoor Advertising Sign Restrictions**

No outdoor advertising sign may be erected or maintained which:

1. Interferes with, imitates or resembles any official traffic control sign, signal, or device, or attempts or appears to attempt to direct the movement of the traffic;
2. Prevents the driver of a motor vehicle from having a clear and unobstructed view of official traffic control signs and approaching or merging traffic;
3. Contains, includes or is illuminated by any flashing intermittent or moving lights, or moves or has any animated or moving parts, except that this restriction shall not apply to a traffic control sign.
4. Is internally illuminated, except in RC and CI districts;
5. Is so located as to be readable primarily from a limited access highway;
6. Is extended more than twenty feet above ground level or attached to the roof of a building; no sign which is mounted on, or part of, the main structure of a building may be higher than the eaves of that part and side of the building;
7. Is located within twenty-five (25) feet of the center line of the road or within one hundred fifty (150) feet of any intersection of streets, unless it is mounted on, or is part of, the main structure of a building.

**Section 675 Mobile Home Parks**

All mobile home parks are subject to the State regulations for mobile home parks (10 V.S.A., Chapter 153). All applications for mobile home parks shall require a permit from the Development Review Board.

**New Mobile Home Parks**

In addition to the requirements for Conditional Use approval, the following general and specific standards must be satisfied before a new mobile home park is approved:

1. There shall be no more than four (4) mobile homes per acre.
2. A minimum of ten thousand (10,000) square feet of lot area shall be provided for each mobile home, including at least five thousand (5,000) square feet for each mobile home site, plus at least five thousand (5,000) square feet for each mobile home in common open space, exclusive of roads. Such common open space shall be accessible to all residents of the mobile home park, and shall have a minimum dimension of seventy-five (75) feet.
3. Site planning improvements shall provide for:
  - a. facilities and amenities appropriate to the needs of the occupants;
  - b. safe, comfortable and sanitary use by the occupants under all weather conditions;
  - c. practical and efficient operation and maintenance of all facilities.
4. Provision shall be made for adequate siting of mobile homes to maximize energy conservation, protect existing vegetation and prevent development of environmentally sensitive areas, such as steep slopes, wet areas, shallow soils and other unique or fragile areas for the health, safety and welfare of the occupants and the community.

**Pre-existing Mobile Home Parks**

If a mobile home park, as defined in 10 V.S.A. Chapter 153 is a nonconformity pursuant to these bylaws, the entire mobile home park shall be treated as a nonconformity, and the individual lots shall not be considered to be a nonconformity under these bylaws, except as provided below. No pre-existing nonconforming mobile home park may be resumed if such use has been abandoned for a period of six months or more. Mobile home parks shall be considered abandoned when the whole park is vacant for a period of six months or more. An individual mobile home lot that is vacated shall not be considered abandoned. In accordance with 24 V.S.A. Sections 4412 (1)(B) & (7)(B), existing, nonconforming mobile home parks shall comply with this section.

1. Any mobile home within the nonconforming mobile home park may be altered, expanded or replaced, providing:
  - a. the applicant provides proof of adequate wastewater capacity; and
  - b. the expansion or replacement will not:
    - i. be located less than ten (10), feet from any other primary structure(s);
    - ii. obstruct or prohibit ingress or egress for any primary structure;
    - iii. obstruct or prohibit mobility or replacement of any primary structure;
    - iv. obstruct or prohibit the provision of emergency services;
    - v. obstruct existing utilities or rights of way; nor
    - vi. threaten or unduly degrade public health, safety, or welfare.

2. Should these standards be found to have the effect of prohibiting the replacement of a mobile home on an existing lot, the DRB, through review and Section 720 herein may alter one or more of these requirements.

The standards in Section 1 above may be waived after conditional use review by the DRB provided the applicant demonstrates that adherence to these standards would have the effect of prohibiting the replacement of a mobile home on an existing lot. In approving this waiver, the DRB may impose conditions requiring design features, screening, or some other remedy in order to mitigate anticipated impacts of any such waiver.

### **Section 680 Gasoline or Auto Service-Stations**

In all districts where permitted, gasoline or motor vehicle service stations shall comply with the following:

1. A gasoline service station building shall not be located within three hundred feet of any dwelling, school, hospital, library, religious institution building.
2. Pumps, lubricating and other service devices shall be located at least fifty (50) feet from the front lot line and side and rear lot lines.
3. All fuel and oil shall be stored at least thirty-five (35) feet from any property line.
4. No signs shall extend beyond the pumps, nor exceed fifteen (15) feet in height.
  - a. (NOTE: signs shall be in conformance with sections 665-670.)
5. There shall be no more than two access driveways from the street. The maximum width of an access driveway shall be forty (40) feet.
6. A suitably curbed landscaped area shall be maintained at least five (5) feet in depth along all street frontage not used as driveway:

### **Section 685 Home Child Care**

A family child care home serving no more than six full-time children and four part-time children, as defined in 33 V.S.A. § 4902(3)(A), shall be considered to constitute a permitted use of property but requires site plan approval. A licensed child care facility serving more than the above number of children requires a Conditional Use permit in districts where such use is listed.

## **ARTICLE 7: ADMINISTRATION AND ENFORCEMENT**

### **Section 700 Administrative Officer**

The Administrative Officer is hereby appointed to administer this Bylaw as provided for in Section 4448 of the Act. Said Officer shall literally enforce the provisions of this Bylaw and in so doing shall inspect developments, maintain records and perform all other necessary tasks to carry out the provisions of this Bylaw. An Acting Administrative Officer shall be appointed and shall have the same responsibilities as the Administrative Officer in his or her absence.

### **Section 701 Zoning & Land Division Permits**

No "Land Development" as defined by this Bylaw may commence, unless a zoning permit shall have been duly issued by the Administrative Officer, as provided for in Section 4449 of the Act. The fee for such zoning permit shall be established by the Selectboard. The division of land constitutes "Land Development" as provided for in Section 4449 of the Act and this Bylaw and requires a Zoning Permit issued by the Administrative Officer. For purposes of this Bylaw the Zoning Permit for division of land shall be known as a Land Division Permit. Applications for Land Division Permits shall meet the requirements of Section 702 and shall be processed in accordance with Sections 703-717.

### **Exemptions**

Notwithstanding the above, no zoning permit shall be required for the following activities or developments carried out in conformance with any applicable standards of this Bylaw:

1. Accepted agricultural practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets, in accordance with the Act [§ 4413(d)]. Written notification, including a site plan showing structure setback distances from road rights-of-way, property lines, and surface waters shall be submitted to the Administrative Officer prior to any construction, as required for such accepted agricultural practices. Such structures shall meet all setback requirements under these regulations, unless specifically waived by the Secretary.
2. Accepted management practices for silviculture (forestry) as those practices are defined by the Commissioner of Forests, Parks and Recreation, in accordance with the Act [§ 4413(d)].
3. Power generation and transmission facilities, which are regulated under 30 V.S.A. § 248 by the Vermont Public Service Board. Such facilities, however, should conform to policies and objectives specified for such development in the Town Plan.
4. Hunting, fishing, and trapping as specified under 24 V.S.A § 2295 on private or public land.
5. Normal maintenance and repair of an existing structure which do not result in exterior alterations or expansion or a change of use.
6. Interior alterations or repairs to a structure, which do not result in exterior alterations or expansion or a change in use.
7. Residential entry stairs (excluding decks and porches), handicap access ramps, walkways, and fences or walls six (6) feet in height or less which do not obstruct public rights-of-way, or interfere with corner visibilities or sight distances for vehicular traffic. (If there is a question the final determination shall be made in consultation with the Road Foreman.)
8. Minor grading and excavation associated with road and driveway maintenance (e.g., including culvert replacement and resurfacing), and lawn and yard maintenance (e.g., for

gardening or landscaping), or which is otherwise incidental to an approved use. This specifically does not include extraction and quarrying activities regulated under Section 650.

9. Outdoor recreational trails (e.g., walking, hiking, cross-country skiing and snow mobile trails) which do not require the installation of structures or parking areas.
10. Small accessory structures associated with residential uses which are less than or equal to two hundred (200) square feet of floor area and less than twelve (12) feet in height, and are not located within required front yard setback area or within six (6) feet from the property line in rear or side yard setback areas.
11. Signs, approved by the DRB or Administrative Officer in accordance with Sections 665-670.
12. Garage sales, yard sales, auctions, or similar activities that do not exceed three (3) consecutive days, nor more than twelve (12) total days in any calendar year.

### **Section 702 Permit Application**

All applications for a zoning permit shall be accompanied by a site plan showing the dimensions of the lot to be built on, location of the building and accessory buildings to be erected, and such other information as may be necessary to determine and provide for the enforcement of this Bylaw. The Administrative Officer shall establish and maintain appropriate application and administrative forms, and site plan standards that will facilitate a clear understanding of the proposed development and demonstrate conformance to the requirements of the Bylaw and 24 V.S.A. Chapter 117. The site plan shall be 8.5" x 11", drawn to scale, and include additional pages as needed to show detail (the Administrative Officer may accept alternate scaled drawing(s) if the officer determines the property and development will be better depicted). The site plan shall include, but is not limited to, the following:

- 1.the dimensions of the lot, including existing property boundaries,
- 2.the location, footprint and height or existing and proposed structures or additions,
- 3.the location of existing and proposed accesses (curb cuts), driveways and parking areas,
- 4.the location of existing and proposed easements and rights-of-way,
- 5.existing and required setbacks from property boundaries, road rights-of-way, surface waters and wetlands,
- 6.the location of existing and proposed water and wastewater systems, and
- 7.other such information as required by the Administrative Officer to determine conformance with these regulations.

### **Section 703 Issuance of Permit**

The Administrative Officer shall not issue a zoning permit unless an application fee, site plan and any other approvals required by this Bylaw have been properly submitted. The Administrative Officer shall within 30 days of submission of application and required data either issue or deny a zoning permit. If denied, the Administrative Officer shall so notify the applicant in writing stating his reasons therefor. If the zoning permit is approved, all activities authorized by its issuance shall be completed within two years of its date of issue, or the zoning permit shall become null and void and re-application to complete any activities shall be required. Permits issued for land development in the flood hazard area shall contain a notation that such land development is located in a regulated flood hazard area.

All Zoning Permits shall contain a statement of the 15-day period of time within which an appeal may be taken, and shall require the applicant to post a "Notice of Permit" within view from the public right-of-way most adjacent to the subject property until the appeal period has passed.

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

Within three (3) days following the issuance of a Zoning Permit, the Administrative Officer shall:

1. Deliver a copy of the permit to the Listers of the town; and
2. Post a copy of the permit in at least one public place in the town until the expiration of fifteen (15) days from the date of issuance of the permit.
3. File a copy of a permit issued for land development in any flood hazard area with the secretary of the Agency of Environmental Conservation, the Regional Planning Commission and the local civil defense agency within ten (10) days of issuance.

#### **Section 704 Effective Date**

If the Administrative Officer fails to act with regard to an application for a permit within thirty (30) days, a permit shall be deemed Issued on the thirty-first (31<sup>st</sup>) day.

No zoning permit shall take effect until the time for appeal has passed, or in the event that a notice of appeal is filed properly, such permit shall not take effect until final adjudication of said appeal.

#### **Section 705 Administrative Review of Permits**

The administrative officer may review and approve minor amendments to previously approved development that would otherwise require review by an appropriate municipal panel in accordance with the provisions of the Act (§4464(c)), where amendment conforms to the bylaw and results in no substantial impact under any of the standards set forth in the bylaws.

No amendment issued as an administrative review shall have the effect of substantively altering any of the findings of fact of the previously approved development. Any decision by an administrative officer under this subsection may be appealed as provided in Section 716 (§§4465 and 4466).

Although the administrative officer has the authority to approve an application administratively s/he is not required to do so. The administrative officer reserves the right to refer any application to the DRB where it is deemed that Board level review or interpretation is appropriate or necessary. In such cases, the applicant shall be responsible for any additional fees or submittals needed for Board review.

**Section 706 Recording Requirements**

Within thirty (30) days of the issuance of a town land use permit, land division permit, or notice of violation, the Administrative Officer shall deliver either the original, a legible copy, or a notice of the permit, together with any Board authorizing decision, or notice violation to the Town Clerk for recording in the land records of the town generally as provided in 24 V.S.A. § 1154(c), and file a copy in the Town Office in a location where all town land use permits shall be kept, as required under the Act [§ 4449(c)]. The cost of the recording fees shall be included in the application fee established pursuant to Section 701.

**Section 715 Development Review Board**

There is hereby established Development Review Board, members of which shall be appointed by the Selectboard. The Board shall have five members. Terms shall be for three years. The Selectboard may also appoint two alternates to serve on the Board in situations where one or more members of the Board are disqualified or are otherwise unable to serve. Terms of alternates shall be for one year.

The Board shall establish and maintain Rules of Procedure to guide the conduct of its business. The Development Review Board shall have all powers and duties as set forth in the Act to administer the provisions of these regulations, including but not limited to the power to hear and act upon:

1. Applications for rights-of-way or easements for development lacking frontage.
2. Appeals from any decision, act or failure to act by the Administrative Officer.
3. Applications for site plan approval.
4. Applications for conditional use approval.
5. Applications for land division approval of more than two lots.
6. Applications for planned unit development.
7. Applications subject to Flood Hazard Area Regulations.
8. Applications subject to Article 9: Wireless Telecommunications Facilities.
9. Applications for waivers or variances.

All decisions of the Board shall be accompanied by findings of fact and conclusions of law, which shall, among its statements, include an enumeration of all interested parties participating in the public hearing through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding.

The Board, after deliberations, may condition the approval of a permit on the satisfactory installation, or bonding, of streets and other required public improvements as provided by 24 V.S.A. §4464.

**Section 716 Appeals**

In accordance with 24 V.S.A. § 4465, an interested person (see definitions) may appeal any decision or act taken by the Administrative Officer by filing a notice of appeal, pursuant to 24 V.S.A. § 4466, with the Development Review Board.

A notice of appeal shall be in writing and shall include the name and address of the appellant, a brief description of the property with respect to which the appeal is taken, a reference to the regulatory provisions applicable to that appeal, the relief requested by the appellant, and the alleged grounds why the requested relief is believed proper under the circumstances.

The Board shall render its decision, which shall include findings of fact, within forty-five (45) days after completing the hearing and shall within that period send to the appellant, by certified mail, and to all parties at the hearing, a copy of the decision. A copy of the decision shall be filed with the Administrative Officer.

If the Board does not render its decision within forty-five (45) days, the Board shall be deemed to have rendered a decision in favor of the appellant.

An interested person may appeal a decision of the Board to the Vermont Environmental Court as provided by 24 V.S.A. § 4471. Upon receipt of a copy of such an appeal, the Zoning Administrator shall supply to the appellant a list of all interested persons based on the written decision for the case by the Board.

**Section 717 Public Hearings**

Upon receipt of a completed application for a conditional use permit, variance, land division, waiver, administrative appeal or planned unit development, the Development Review Board shall hold a noticed public hearing as required by 24 V.S.A. § 4464. Notice shall include a legal notice in the newspaper, posting in public places within the Town, posting on the subject property, and written notice to property owners adjoining the subject property. The Board shall establish and maintain procedures and standards for the required notice, including notice responsibilities the Town will assume and those required of the applicant.

**Section 720 Conditional Use Permits**

No Zoning Permit shall be issued by the Administrative Officer for any use or structure which requires a Conditional Use Permit in this Bylaw until the Development Review Board grants such approval. In considering its action, the Development Review Board shall make findings on general and specific standards, hold hearings and attach conditions as provided for in Section 4417(3) of the Act.

**Section 721 Conditional Use Permits: General Standards**

The Development Review Board shall require that the proposed use shall not adversely affect:

1. The capacity of existing or planned community facilities;
2. The character of the area affected;
3. Traffic on roads and highways in the vicinity;
4. By-laws then in effect;
5. Utilization of renewable energy sources;
6. Furtherance of the provisions of the Dummerston Town Plan.

**Section 722 Conditional Use Permits: Specific Standards**

The Development Review Board shall require that the proposed use meet the specific standards in Articles III-VI of this Bylaw whenever such are applicable to the proposed use.

The area and density, frontage, setback, coverage, height, and any other general requirements for the zoning district in which the proposed use will be located shall be considered minimum requirements for a Conditional Use Permit.

In granting a Conditional Use Permit, the Board may attach such additional reasonable conditions and safeguards including performance bonds in accordance with Section 4464(b)(6) of the Act, as it may deem necessary to implement the purposes of the Act and this Bylaw, e.g., minimum lot size, distance from adjacent or nearby uses, landscaping and fencing and design and location of structures and service areas.

**Section 724 Site Plan Approval**

All uses and structures require Site Plan Approval by the Development Review Board except: one-family and two-family dwellings; accessory uses thereto; agricultural uses; signs allowed under Section 669.1 of this bylaw; and one-to-two parcel land subdivision. The Administrative Officer may issue Zoning Permits for the exceptions listed above.

**Section 725 Submission of Site Plan and Supporting Data**

The Owner shall submit two sets of site plans and supporting data to the Development Review Board which shall include the following information presented in drawn form and accompanied by written text. The Development Review Board may waive, or vary the submission requirements at its discretion.

1. Name and address of the owner of record and adjoining lands. Name and address of person or firm preparing the map. Scale of map, north point and date.
2. Survey of the property showing existing features, including contours, structures, large trees, streets, utility easements, rights of way, land use and deed restrictions
3. Site plan showing proposed structure, locations and land use areas; streets, driveways,

traffic circulation, parking and loading spaces and pedestrian walks; landscaping plans, including site grading, landscape design, lighting and screening.

4. Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas of the entire development.

### **Section 726 Site Plan Review Procedure**

Prior to consideration of a completed application for Site Plan Review by the Board, the application shall be noticed as required by 24 V.S.A. § 4464, including posting in public places within the Town, posting on the subject property, and written notice to property owners adjoining the subject property. The Board shall establish and maintain procedures and standards for the required notice, including notice responsibilities the Town will assume and those required of the applicant.

The Board shall review the site plan map and supporting data before approval or approval with stated conditions, or disapproval, is given.

The Board may impose appropriate conditions and safeguards with respect to the following:

1. Compatibility with adjacent land uses.
2. Maximum safety of vehicular circulation between the site and the street network.
3. Adequacy of circulation, parking and loading facilities with particular attention to safety.
4. Adequacy of landscaping, screening and setbacks in regard to achieving maximum compatibility and protection of adjacent property.
5. Lighting, noise, odors, protection of renewable energy resources.

When a development requiring a Site Plan Review approval also requires a Conditional Use Permit by this Bylaw, the Site Plan Review shall be incorporated into the Conditional Use Permit processing and consideration so that only one consolidated permit is required. The consolidated Conditional Use Permit/Site Plan Review shall meet the minimum standards for each approval.

### **Section 727 Conditional Use /Site Plan Permit Review**

Conditional Use and Site Plan permits shall be reviewed every five (5) years by the Administrative Officer for compliance to the conditions granted in the permit. Nothing in this section shall be construed to limit the Administrative Officer's administration and enforcement of the Bylaw and permit conditions. The DRB may specify other periodic reviews and/or limit the term of a Conditional Use or Site plan or consolidated permit. In authorizing a Conditional Use permit for land development activities that extend over a number of years, the DRB may retain jurisdiction on the permit; and, after additional noticed hearing, may modify the terms of the permit. If a property is found to be out of compliance with its permit, the DRB has the authority to revoke or amend the permit, after a duly called hearing. A permit shall be revoked or amended by the same process in which it was granted.

**Section 728 Variances**

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

1. There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions and not the circumstances or conditions generally created by the provisions of these regulations in the neighborhood or district in which the property is located;
2. Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these regulations and that the authorization of a variance is necessary to enable the reasonable use of the property;
3. The unnecessary hardship has not been created by the appellant;
4. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare; and
5. The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.

**Renewable Energy Structures**

Where a variance is requested for a structure that is primarily a renewable energy resource structure, in accordance with the Act [§ 4469(b)], the Board may grant such variance only if all of the following facts are found in the affirmative and specified in its written decision:

1. It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with these regulations;
2. The hardship was not created by the appellant;
3. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and
4. The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.

**Section 730 Violations & Enforcement**

The commencement or continuation of any land development that does not meet the requirements of these regulations shall constitute a violation. All violations shall be pursued in accordance with the Act [ §§ 4451, 4452]. The Administrative Officer shall institute, in the name of the Town of Dummerston, any appropriate action, injunction or other proceeding to enforce the provisions of these regulations. The Administrative Officer may consult with and utilize the assistance of the Town Attorney or other Town officials in carrying out this responsibility. All fines imposed and collected shall be paid over to the town.

Any person who violates the provisions of this bylaw may be fined not more than \$100.00 for each offense. Each day that a violation continues shall constitute a separate offense. No action may be brought under this section unless the alleged offender has had at least seven (7) days' warning notice by certified mail. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation of the bylaw or ordinance after the seven-day notice period and within the next succeeding twelve (12) months. The seven-day warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. In default of payment of the fine, such person, the members of any partnership, or the principal officers of such corporation shall each pay double the amount of such fine.

As used in this section, "person" means an individual, partnership, corporation, association, unincorporated organization, trust, or other legal or commercial entity, including a joint venture or affiliated ownership; a town or state agency; or individuals and entities affiliated with each other for profit, consideration, or any other beneficial interest derived from real estate, except as specified in 24 V.S.A. § 4454(d)(2).

Nothing in this section shall prevent any action, injunction, or other enforcement proceeding by a town under any other authority it may have, including a town's authority under V.S.A. Title 18, relating to the authority to abate or remove public health risks or hazards.

## ARTICLE 8: DEFINITIONS

Doubt as to the precise meaning of any word used in this Bylaw shall be clarified by the Development Review Board.

**ACCESSORY:** clearly incidental or subordinate to.

**ACCESSORY DWELLING UNIT:** a distinct dwelling unit that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. See Section 603.4 and 24 V.S.A. § 4412(1)(E).

**ACCESSORY ON-FARM BUSINESS:** activity that is accessory to a farm as defined in 24 V.S.A. § 4412(11).

**ACCESSORY USE OR STRUCTURE:** a use or structure on the same lot with, and of a nature customarily incidental and, subordinate to, the principal use or structure.

**ADMINISTRATIVE OFFICER:** the Zoning Administrator or other local official charged with administering this bylaw.

**ADVERSE EFFECT:** an activity or project that will not be in harmony with its surrounding, or is out of context with the context within which it will be located. Factors considered include the nature of the surroundings, the compatibility of design with those surroundings, the suitability of color and materials, locations from which the project can be viewed and the potential impact on open space. (*from 2004 Vermont Environmental Board Training Manual, for Act 250 criterion 8*)

**ANIMAL HOSPITAL:** a facility for the short-term care and treatment of sick or injured animals within an enclosed structure.

**APPURTENANT:** incidental or subordinate to (see ACCESSORY).

**AUTO SERVICE AND REPAIR:** an enclosed structure for the servicing and repair of motor vehicles. Includes enclosed car washes, but does not include car sales or the storage of inoperative or wrecked vehicles.

**BASEMENT:** any area of the building having its floor subgraded (below ground level) on all sides.

**BED & BREAKFAST:** a single family dwelling in which not more than seven (7) rooms are offered for rent to transient guests on a nightly basis, in addition to the principle occupants who shall reside on the premise. Central dining and food preparation facilities may be provided sufficient to serve guests; cooking facilities shall not be provided in individual guest rooms.

**BUILDING:** a walled and roofed building including a gas or liquid storage tank that is principally above ground.

**BUILDING FOOTPRINT:** the area within the perimeter of a building including all roofed areas and excluding roof overhang, exterior stairs, patios and decks.

**BUILDING FRONT LINE:** a line parallel to the front lot line transecting that point in the building face which is closest to the front lot line.

**BUILDING HEIGHT:** the vertical distance measured from the lowest point of proposed finished grade to the highest point of the roof for flat and mansard roofs, and to the average height between eaves and ridge for other types of roofs. Not included are spires, cupolas, antennae, energy producing facilities or other parts of structures, which do not enclose potentially habitable floor space. Building height limits are applicable to all facades of a structure.

**BUILDING SET-BACK MINIMUM:** See Section 615 for explanation.

**BUILDING TRADE:** a place for transacting business such as selling materials & supplies having to do with construction or erection of structures or development of property.

**CAMP:** a residential structure for temporary, occasional or seasonal use. See also Single Family Dwelling.

**CAMPGROUND:** land on which is located one or more cabins, trailers, shelters, tent spaces or other accommodations suitable for seasonal or temporary living purposes.

**CEMETERY:** land designated for the burial or internment of the intact or cremated remains of people either above or below ground.

**CHANGE OF USE:** to alter or vary the function, service, or purpose, of a building, structure, or parcel of land, Any change of use from one category to another (i.e., residential to commercial) or within a category of use (i.e., one conditional use to another), one manufacturing use to another, or from a single family use to a two family use or multi-family use. A change of use shall also include a change of character of the business activity (i.e., retail to wholesale).

**COMMERCIAL:** any land use or structure where the interchange of goods, wares, products or property of any kind, takes place between individuals either by barter, purchase or sale.

**COMMUNICATIONS STRUCTURE:** a structure used for the reception or transmission of electromagnetic or radio waves such as, but not limited to, radio or television broadcasting towers, microwave transmission or relay facilities, or antennae, whether or not used for private, commercial or public utility purposes. This definition shall not include antennae or radio transmission facilities if such is an accessory use solely for the recreational use of a resident.

**COMMUNITY CENTER:** a public, or private nonprofit, structure in which recreational and/or cultural activities may be pursued by the residents or the neighborhood in which it is situated.

**CONSERVATION:** the preservation, guarding, protecting from loss, decay or violation of any of our natural resources.

**COUNTRY INN:** a lodging establishment serving meals, usually developed from a classic home in a rural or village setting. A Country Inn is limited to a maximum of twenty (20) guest rooms.

**COVERAGE:** that percentage of the lot area covered by buildings and other structures, parking areas, and driveways.

**CUSTOMARY:** usual, expected, traditional or typical.

**DEVELOPMENT:** (see Land Development)

**DWELLING - SINGLE FAMILY:** a structure, used as a living quarters, designed and constructed for use by one family.

**DWELLING - TWO FAMILY:** a structure used as living quarters by two families living independently of each other.

**DWELLING - MULTIPLE FAMILY:** a structure used as living quarters by three or more families living independently of each other.

**DORMITORY:** a building, or part of a building, with many rooms that provides sleeping and living accommodations for a number of people.

**EARTH AND MINERAL EXTRACTION:** the removal of soil, sand, gravel or other earth resource for sale or transport to another location, including screening and crushing operations and the addition of construction and demolition wastes and stump disposal as necessary for the operation, grading, and reclamation of the excavation site; provided however, that such removal of soil, sand, gravel or other earth resource shall not be incidental to the construction of a building on the same premises.

**EASEMENT:** a grant by a property owner to the use of land by the public, a corporation, or persons for specific purposes such as the construction of utilities, drainage ways, and roadways.

**EMPLOYEE:** every person who may be permitted, required, or directed by any employer, in consideration of direct or indirect gain or profit, to perform services. (See 21 VSA Section 302, subsection 2)

**FAMILY:** one or more persons living, sleeping, cooking and eating on the same premises as a single housekeeping unit.

**FAMILY CHILD CARE HOME:** a home where the owner is to be licensed or registered by the state for child care. A family child care home serving no more than six full-time children and four part-time children, as defined in subdivision 33 V.S.A. § 4902(3)(A), shall be considered to constitute a permitted use in a single family residential property.

**FARM:** A parcel or parcels owned, leased, or managed by a person, devoted primarily to farming, and subject to the RAP rules. See 24 V.S.A. § 4412(11)(A)(ii). A Farm Determination

from the VT Agency of Agriculture, Food and Markets meets the criteria for a farm for this bylaw.

**FARMING:** Cultivation or other uses of land for the production of agricultural crops or raising of livestock, including accessory structures and activities, as defined in 10 VSA 6001(22) and 10 VSA 16A § 374(b).

**FORESTRY:** silvicultural management practices, including the harvesting, processing and marketing of any forest products.

**FRONTAGE:** the lot line separating a lot from a street right-of-way.

**GASOLINE SERVICE STATION:** building or land that is used for the sale of motor fuel, oil, and motor vehicle accessories.

**HOME BUSINESS:** any business operated out of the principal dwelling or accessory structure of the business owner or operator, where the business aspect is secondary to the residential use and does not change the residential character of the property or the surrounding area. A Home Business is considered an Accessory Use and is regulated under Section 605.

**INTERESTED PERSON:** [from the Planning and Development Act (Title 24 V.S.A. Chapter 117), Section 4465(b), as amended through 2012]

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 the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case.
2. The municipality that has a plan or a bylaw at issue in an appeal brought under this chapter or any municipality that adjoins that municipality.
3. A person owning or occupying property in the immediate neighborhood of a property that is the subject of any decision or act taken under this chapter, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality.
4. Any ten persons who may be any combination of voters or real property owners within a municipality listed in subdivision (2) of this subsection who, by signed petition to the appropriate municipal panel of a municipality, 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 or bylaw of that municipality. This petition to the appropriate municipal panel must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal.
5. Any department and administrative subdivision of this state owning property or any interest in property within a municipality listed in subdivision (2) of this subsection, and the agency of commerce and community development of this state.

**JUNK:** old or scrap copper, brass, iron, steel or other old or scrap or nonferrous material-, including but not limited to rope, rags, batteries, glass, rubber debris, waste of any discarded, dismantled, wrecked, scrapped, abandoned or ruined motor vehicles or parts thereof.

**JUNKYARD:** any place of outdoor storage or deposit, whether in connection with a business or not, which is maintained, operated or used for storing, keeping, processing, buying or selling junk, junk motor vehicles, or a scrap metal processing facility. See Solid Waste Facility.

**KENNEL:** a commercial establishment for boarding or breeding of dogs, cats or other small pets.

**LAND DEVELOPMENT:** The division of any land parcel into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure or sign; any mining, excavation, landfill, or construction of access road; or any change in the use of structure or land.

**LANDSCAPING:** The addition of lawn, trees, plants, grading, fences, walls, and other natural and decorative features to the land. (See definition of structure.)

**LICENSED CHILD CARE FACILITY:** a home or dedicated facility where the owner/proprietor is licensed by the state for child care. A licensed child care facility may serve more than six children and may require a conditional use permit. The maximum number of children served will be based upon indoor and outdoor square footage, completed building Fire Safety inspections and the number of qualified staff present within a program.

**LIGHT INDUSTRY:** a non-polluting, non-impacting, trade, business or place of manufacture that produces, processes or markets a product, as distinguished from agriculture or forestry. See Section 660 for Performance Standards.

**LOT:** a parcel of land which may or may not be occupied by a building and its accessory buildings together with the required open spaces, having not less than the minimum area, width and depth required for a lot in the district in which such land is situated, and having frontage on a street (road) or other means of access as may be determined by the Development Review Board to be adequate as a condition of the issuance of a zoning permit for a building on such land.

**LOT DEPTH:** the horizontal distance from the existing or traveled highway right-of-way (see Section 615) to its opposite rear line measured at right angles to the front line.

**LOT WIDTH:** the distance measured across the width of the lot at the building, or proposed building, front line.

**MANUFACTURING:** the making of goods, articles or products by hand or machinery.

**MANUFACTURED HOME:** a structure, transportable in one or more sections, which built on a permanent chassis and is designed for use with or without a permanent foundation when connected to required utilities.

**Mixed Use Structure:** a structure containing two or more permitted or conditional uses provided for in the district.

**MOBILE HOME:** a structure or type of manufactured home that is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation, includes plumbing, heating, and electrical systems, and is:

1. transportable in one or more sections; and
2. at least eight feet wide or 40 feet long or when erected has at least 320 square feet or if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32 feet long; or
3. any structure that meets all the requirements of this subdivision except for size and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the standards established under Title 42 of the U.S. Code. 10 V.S.A. § 6201(1).

**MOBILE HOME PARK:** a parcel of land under single or common ownership or control which contains, or is designed, laid out-or adapted to accommodate, two or more mobile homes. Nothing herein shall be constructed to apply to premises used solely for storage or display of mobile homes. 10 V.S.A. § 6201 (2).

**MODULAR (OR PREFABRICATED) HOUSING:** a dwelling unit constructed on-site and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.<sup>4</sup>

**NEIGHBORHOOD STORE:** A shop or store intended principally to serve the area in which it is located, such as a grocery store (as distinct from a supermarket), drug store, stationery store, coffee shop, tea house, soda fountain, luncheonette, or barbershop. This shall exclude drive-through service. This store shall have a building footprint not in excess of sixteen hundred (1,600) square feet.

**NONCONFORMING LOTS OR PARCELS (Statutory Definition):** Lots or parcels that do not conform to the present bylaws covering dimensional requirements, including size but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the administrative officer. 24 V.S.A. § 4303(13).

**NONCONFORMING STRUCTURE (Statutory Definition):** 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(14).

**NONCONFORMING USE (Statutory Definition):** 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. 24 V.S.A. § 4303(15).

**OFFICE BUILDING:** a building used primarily for conducting the administrative affairs of one or more businesses, professions, or services.

**PACKAGING:** the act of wrapping or boxing a product(s).

**PARKING SPACE:** off-street space, used for the temporary location of one licensed motor vehicle, which is at least nine feet wide and twenty-two feet long, not including access driveway, and having direct access to a street or highway.

**PERSONAL SERVICE:** an establishment or place of business primarily engaged in the provision of frequent or recurrent needed services of a personal nature. Typical uses include, but are not limited to, massage therapists, hair salons, counseling, and consulting.

**PLACE OF WORSHIP:** a building used for public worship by a congregation, excluding buildings used exclusively for residential, educational, recreational, or other uses not normally associated with worship.

**PLANNED UNIT DEVELOPMENT (PUD):** a subdivision or development of five (5) or more dwellings, commercial and/or industrial uses which do not correspond in lot size, or bulk, or type of unit for the zoning district in which it is located (See Article 5).

**PORTABLE STORAGE CONTAINER:** any type of container designed to hold materials and to be moved by heavy equipment.

**PROCESSING:** a method to produce a product generally involving a number of steps or operations, including preparation.

**PROFESSION:** a vocation or occupation requiring, advanced training in some liberal art or science and involving mental rather than manual work.

**PUBLIC OR GOVERNMENTAL BUILDING:** a federal, state or local governmental owned or leased building for the conduct of public business. Includes Town Offices, State office buildings, libraries, and post offices. Does not include road yards, sand or gravel stockpiling, heavy equipment storage or servicing, or recycling centers (which may fit within the definitions of enclosed storage, repair shops, solid waste facilities).

**RECREATIONAL FACILITY:** a place for amusement or relaxation, such as sports, games, hobbies, including fitness.

**RECREATIONAL VEHICLE (RV):** a van or utility vehicle designed for recreational purposes, and often equipped with living facilities.

**RENEWABLE ENERGY RESOURCE:** energy available for collection or conversion from direct sunlight, wind, running water, organically derived fuels including wood, agricultural resources, waste materials, waste heat and geothermal sources.

**REPAIR SHOP:** a structure where restoration or mending of goods takes place.

**RESERVOIR:** a place where water is collected and stored, generally in a large quantity.

**RESIDENTIAL CARE FACILITY:** a residential care home, nursing home, assisted living residence, home for the terminally ill, or therapeutic community residence licensed or required to be licensed pursuant to the provisions of 33 V.S.A. § 7102 and housing 9 or more residents.

**RESIDENTIAL CARE HOME:** A place, however named, excluding a licensed foster home, which provides, for profit or otherwise, room, board, and personal care to three or more residents unrelated to the home operator. 33 V.S.A. § 7102(10).

**RESOURCE:** natural elements such as, but not limited to, forests, land, air, minerals, water, wildlife, fish and energy.

**RESTAURANT:** a place where meals can be purchased and eaten inside the building. This does not include drive-in, drive-up or drive-through service.

**RETAIL STORE:** a shop or store for the sale of goods, commodities, products or services in small quantities directly to the consumer, as opposed to wholesale. This shall exclude drive-in service, free-standing retail stands, gasoline service, and motor vehicle repair service, new and used car sales, snowmobiles, motorcycles and moped sales and services and trailer and mobile home sales and service.

**RIGHT-OF-WAY:** the legal right to pass over property owned by another party, and the path or thoroughfare on which such passage is made.

**SCHOOL:** a public or private educational facility including preschool, elementary, secondary, trade and vocational.

**SHORT-TERM RENTAL:** a dwelling rented to the transient, traveling, or vacationing public for a period of fewer than 30 consecutive days and for more than 14 days per calendar year. Rentals of less than 15 days per calendar year are not subject to Conditional Use Permits.

**SOLID WASTE FACILITY:** a facility for the processing, temporary storage, recycling, transfer or buying or selling junk, junk motor vehicles, or a scrap metal. Includes junkyards, hazardous waste processing, dumpster storage and recycling centers.

**STORAGE FACILITY:** a commercial use of land for temporary storage of goods, materials, or supplies.

**STORAGE, PORTABLE CONTAINER:** a structure, designed for storage of materials or trash, which can be moved and emptied with trucks or machinery. Garbage dumpsters up to 6 cubic yards are allowed with any residential use in all districts.

**STRUCTURE:** anything constructed, erected or installed for occupancy or use which remains, or will remain, more than 12 months in the same location. Any building, mobile home, trailer, recreational vehicle, tower, swimming pool, deck, or portable storage container may be

considered a structure if it meets the above criteria. If any construction or installation requires a wastewater system permit from VT Agency of Natural Resources, then it is considered a Structure by this bylaw.

Mailboxes, dog houses, Little Free Libraries, clotheslines, poles, and lamp posts are not considered structures. Fences, walls, and retaining walls exceeding six feet in height are considered structures. Fences, walls, and retaining walls not exceeding six feet in height as well as any agricultural fence on an operating farm are not considered structures.

**STUDIO:** a building or room used by an artist, sculptor, photographer, musician or similar profession.

**SUBDIVISION:** the division of a lot or parcel of land into two or more lots or other division of land for sale, development, or lease.

**TRAILER:** any van or closed vehicle usually pulled by a car or truck, and equipped for temporary occupancy or other use.

**TRAILER CAMP OR PARK:** see Campground

**UNDUE ADVERSE EFFECT:** an adverse effect that either:

1. violates a clear, written community standard intended to protect the aesthetics or scenic beauty of the area, or
2. offends the sensibilities of the average person because it is out of character with its surroundings or significantly diminishes the scenic qualities of the area, or
3. has not been alleviated by generally available mitigation steps which a reasonable person would take to improve the harmony of the project with its surroundings. *(from 2004 Vermont Environmental Board Training Manual for Act 250)*

**WAREHOUSE:** a building where wares or goods are stored on a revolving basis.

**YARD:** space on a lot not occupied with a building or structure. Porches, whether enclosed or un-enclosed, shall be considered as part of the main building and shall not project into a required yard.

## **ARTICLE 9: WIRELESS TELECOMMUNICATIONS FACILITIES**

### **Section 900 Statutory Authorization**

To effect the purpose of 24 V.S.A. Chapter 117, and in accord with section § 4414(12) of the Act, there are hereby established Wireless Telecommunications Facilities Regulations in the Town of Dummerston.

### **Section 901 Statement of Purpose**

The purpose of this bylaw is to promote the public health, safety, and telecommunication needs of Dummerston residents, while preserving the scenic and historic qualities of the of the town.

### **Section 905 Permits Required; Exemptions**

A wireless telecommunications facility may be permitted as a conditional use in all districts, upon compliance with this bylaw. No installation or construction of, or significant addition or modification to, any wireless telecommunications facility shall commence until a permit has been issued by the Administrative Officer. A permit for a wireless telecommunication facility shall be issued if, in the determination of the Development Review Board, the facility will impose no impact or de minimus impact, on the criteria established to obtain a conditional use permit and site plan approval.

No permit shall be required for a wireless telecommunication facility used exclusively for municipal radio dispatch service, or emergency radio dispatch service and which does not exceed 50 feet in elevation.

No permit shall be required for a wireless telecommunications facility that has received a Certificate of Public Good.

This bylaw shall not apply to amateur radio, citizens band radio, AM or FM radio, or broadcast television service

This bylaw shall not prohibit a property owner's ability to place or allow placement of antennae used to transmit and/or receive, communications signals on the property owner's premises if the aggregate area of the largest face of the antennae is not more than 8 square feet, and if the mast and antennae do not extend more than 12 feet above the roof portion to which they are attached.

**Section 908 Permit Application Requirements**

In addition to information otherwise required in the Town of Dummerston Zoning Bylaw, applicants shall include the following supplemental information:

1. The name, address and telephone number of the owner or lessee of the property on which the wireless telecommunication facility will be located.
2. A vicinity map showing the entire vicinity within a 1,000 foot radius of the facility, including the location of any tower, topography, public and private roads and driveways, buildings and structures, utilities, water bodies, wetlands, landscape features, historic sites and necessary 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.
3. The location of the facility on a USGS Topographic Map or a GIS-generated map compatible with Vermont Center for Geographic Information (VCGI) standards and encompassing the area within at least a two-mile radius of the proposed tower site.
4. 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).
5. In the case of a site that is forested, the approximate average elevation of the existing vegetation within 50 feet of any tower base.
6. Construction sequence and time schedule for completion of each phase of the entire project.
7. 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 collocated 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 5 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 needed to evaluate the application, as determined by the Development Review Board.
8. 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.
  9. 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.
  10. 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 is not required for the facility.

### **Section 910 Independent Consultants**

Upon submission of an application for a Wireless Telecommunication Facility permit, the Development Review Board may retain independent consultants whose services shall be paid for by the applicant. These consultants shall be qualified professionals in telecommunications engineering, structural engineering, monitoring of electromagnetic fields and such other fields deemed appropriate by the Development Review Board. The consultant(s) shall work at the Development Review Board's direction and shall provide the Development Review Board reports and assistance, as they deem necessary to review an application.

### **Section 912 Balloon Test**

The Development Review Board may require the applicant to fly a four-foot diameter brightly colored balloon at the location and maximum elevation of any proposed tower. If a balloon test is required, the applicant shall advertise the date, time, and location of this balloon test seven days in advance of the test in a newspaper with a general circulation in the Town. The applicant shall also inform the Development Review Board, in writing, of the date, time and location of the test, at least 15 days in advance of the test.

The balloon shall be flown for at least eight consecutive daylight hours on two days. If visibility and weather conditions are inadequate for observers to be able to clearly see the balloon test, further tests may be required by the Development Review Board.

**Section 914 Criteria for Approval and Conditions**

An application for a wireless telecommunication facility permit shall be approved after a hearing when the Development Review Board finds all the following criteria have been met:

1. The facility will not be built on speculation. If the applicant is not a Wireless Telecommunication Service Provider, the Development Review Board may require the applicant to 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. 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 collocation of facilities.
2. 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.
3. 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.
4. The applicant will remove the Facility, should the Facility be abandoned or cease to operate. 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.
5. The applicant demonstrates that the facility will be in compliance with all FCC standards and requirements regarding radio frequency radiation.
6. The applicant will maintain adequate insurance on the facility.
7. The facility will be properly identified with appropriate warnings indicating the presence of radio frequency radiation. The Development Review Board] may condition a permit on the provision of appropriate fencing.
8. The proposed equipment cannot be reasonably collocated at an existing wireless telecommunication facility. In determining whether the proposed equipment cannot be reasonably collocated at an existing facility, the Development Review Board shall consider the following factors:
  - a. The proposed equipment would exceed the structural or spatial capacity of the existing facility and the existing facility cannot be reinforced, modified or replaced to accommodate planned equipment at a reasonable cost.
  - b. The proposed equipment would materially impact the usefulness of other equipment at the existing facility and such impact cannot be mitigated or prevented at a reasonable cost.

- c. The proposed equipment, alone or together with existing equipment, would create radio frequency interference and/or radio frequency radiation in violation of federal standards.
  - d. Existing towers and structures cannot accommodate the proposed equipment at an elevation necessary to function reasonably or are too far from the area of needed coverage to function adequately.
  - e. Collocation of the equipment upon an existing tower would cause an undue aesthetic impact.
9. The Facility provides reasonable opportunity for collocation of other equipment.
10. The Facility will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.
11. The Facility will not have an undue adverse aesthetic impact. In determining whether a facility has an undue adverse aesthetic impact, 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.
12. The facility will not destroy or significantly imperil necessary wildlife habitat or that all reasonable means of minimizing the destruction or imperilment of such habitat or species will be utilized.
13. The Facility will not generate undue noise.

**Section 916 Continuing Obligations for Wireless Telecommunication Facilities**

The owner of a wireless telecommunication facility shall, at such times as requested by the Development Review Board, 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 time frame requested by the Development Review Board, shall mean that the facility has been abandoned.

**Section 918 Removal of Abandoned or Unused Facilities**

Unless otherwise approved by the Development Review Board, an abandoned or unused wireless telecommunication facility shall be removed within 180 days of abandonment or cessation of use. If the facility is not removed within 90 days of abandonment or cessation of use the Select Board may cause the Facility to be removed. The costs of removal shall be assessed against the Facility owner.

Unused portions of an operating wireless telecommunication facility shall be removed within 180 days of the time that such portion is no longer used. Replacement of portions of a Facility previously removed shall require a new permit, pursuant to Section VI.

After a facility is removed, the landscape shall be remediated to a condition described by the Development Review Board.

**Section 920 Definitions**

**ADMINISTRATIVE OFFICER:** The Town's Zoning Administrator as defined in Section 700 of the Zoning Bylaw.

**ADEQUATE CAPACITY:** Capacity for wireless telephony is considered to be “adequate” if the grade of service (GOS) is p.05 or better for median teletraffic levels offered during the typical busy hour, as assessed by direct measurement of the facility in question. The GOS shall be determined by the use of standard Erlang B calculations. A call blocking may occur in either the land line or radio portions of a wireless network, Adequate Capacity for this article shall apply only to the capacity of the radio components. Where capacity must be determined prior to the installation of the wireless telecommunications facility in question, Adequate Capacity shall be determined on the basis of a 20% busy hour (20% of all offered traffic occurring within the busiest hour of the day), with total daily traffic based on aggregate estimates of the expected traffic in the coverage area.

**ADEQUATE COVERAGE:** Coverage for wireless telephony is “adequate” within that area surrounding a base station where the predicted or measured median field of strength of the transmitted signal is such that most of the time, transceivers properly installed and operated will be able to communicate with the base station without objectionable noise (or excessive bit -error-rate for digital) and without calls being dropped. In the case of cellular communications in a rural environment, this would be signal strength of at least -90 dBm. It is acceptable for there to be holes within the area of adequate coverage as long as the signal regains its strength further away from the base station. The outer boundary of the area of adequate coverage, however, is that location past which the signal does not regain.

**ANTENNA:** A device that is attached to a tower or other structure for transmitting and receiving electromagnetic waves.

**ANTENNA HEIGHT:** The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

**APPLICANT:** A person who or entity which applies for a telecommunications facility siting. An applicant can be the wireless telecommunications service provider or the owner of the property.

**COLLOCATION:** Location wireless communications equipment from more than one provider on a single site.

**FREQUENCY:** The number of cycles completed each second by an electromagnetic wave measured in Hertz (Htz).

**PERMIT:** A document which defines the rights and obligations extended by the Town to an applicant to own, construct, maintain, and operate its facility within the boundaries of the Town.

**TOWER:** A vertical structure for antennas that provide wireless telecommunications services.

**WIRELESS SERVICE:** any commercial mobile radio service, wireless service, common carrier wireless exchange service, cellular service, personal communications service (PCS), specialized mobile radio service, paging service, wireless data service, or public or private radio dispatch service. (30 V.S.A. § 248a)

**WIRELESS TELECOMMUNICATIONS FACILITY:** All equipment and locations of equipment with which a wireless telecommunications provider transmits and receives the waves which carry their services. This facility may be sited on one or more tower or structure(s) owned and permitted by the provider or another owner or entity.

**WIRELESS TELECOMMUNICATIONS SERVICE PROVIDER:** An entity licensed by the FCC to provide telecommunications services to individuals or institutions.