

Dummerston Planning Commission Zoning Bylaw Update Draft: 4/1/2014

ARTICLE I: 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 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 these Bylaws. 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 II: 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 205 Conservation District CNGeneral 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 in 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.

UsesAllowed

Accessory Apartment Dwelling
 Accessory Use
 Agriculture
 Cemetery
 Dwelling Single Family
 Dwelling Two Family
 Family Child Care Home
 Forestry
 Home Occupation
 Reservoir
 Residential Care Home

Conditional

Agri-tourism
 B&B
 Home Business

Area, Dimensional, and Coverage Requirements

	<u>Residential Uses</u>	<u>Non-Residential Uses</u>
Setbacks (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 values on 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.

Uses**Allowed**

Accessory Apartment Dwelling
 Accessory Use
 Agriculture
 Cemetery
 Dwelling Single Family
 Dwelling Two Family
 Family Child Care Home
 Forestry
 Home Occupation
 Reservoir
 Residential Care Home

Conditional

Agri-tourism
 B&B
 Building Trade/Repair Shop
 Communication Structure
 Earth/mineral Extraction
 Home Business
 PUD residential only

Area, Dimensional, and Coverage Requirements:

	<u>Residential Uses</u>	<u>Non-Residential Uses</u>
Setbacks (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 DistrictRUR**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.

Uses

<u>Allowed</u>	<u>Conditional</u>	
Accessory Apartment Dwelling	Agri-tourism	PUD residential only
Accessory Use	Animal Hospital	Recreational Facility
Agriculture	Auto Service & Repair	
Cemetery	Building Trade/Repair Shop	
Dwelling Single Family	B&B	
Dwelling Two Family	Campground	
Family Child Care Home	Communication Structure	
Forestry	Country Inn	
Home Occupation	Earth/Mineral Extraction	
Reservoir	Licensed Child Care Facility	
Residential Care Home	Home Business	
	Kennel	

Area, Dimensional, and Coverage Requirements:

	<u>Residential Uses</u>	<u>Non-Residential Uses</u>
Setbacks (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.

Uses**Allowed**

Accessory Apartment Dwelling
Accessory Use
Agriculture
Dwelling Single Family
Dwelling Two Family
Family Child Care Home
Forestry
Home Occupation
Residential Care Home

Conditional

Agri-tourism
B&B
Cemetery
Communication Structure
Country Inn
Dwelling Multi-Family ≤ 4
Licensed Child Care Facility
Home Business
Kennel
Mixed Use Structure
Mobile Home Park
Portable Storage Containers
PUD Residential Only
Reservoir
Storage Facility

Area, Dimensional, and Coverage Requirements:

	<u>Residential Uses</u>	<u>Non-Residential Uses</u>
Setbacks (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.

Uses**Allowed**

Accessory Apartment Dwelling
Accessory Use
Agriculture
Dwelling Single Family
Dwelling Two Family
Family Child Care Home
Forestry
Home Occupation
Residential Care Home

Conditional

Agri-tourism
Animal Hospital
Auto Service & Repair
B&B
Building Trade/Repair Shop
Cemetery
Communication Structure
Community Center
Country Inn
Dwelling Multi-Family
Licensed Child Care Facility
Home Business

Mixed Use Structure
Mobile Home Park
Office Building
Places of Worship
Portable Storage
Containers
PUD Residential Only
Recreational Facility
Restaurant
Retail Store
School (Public & Private)
Storage Facility

Area, Dimensional, and Coverage Requirements:

	<u>Residential Uses</u>	<u>Non-Residential Uses</u>
Setbacks (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>		

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Section 230 Settlement Areas District 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.

Uses

<u>Allowed</u>	<u>Conditional</u>	
Accessory Apartment Dwelling	Agri-tourism	Mixed Use Structure
Accessory Use	B&B	Office Building
Agriculture	Building Trade/Repair Shop	Places of Worship
Dwelling Single Family	Cemetery	Public/Government Building
Dwelling Two Family	Communication Structure	PUD Residential Only
Family Child Care Home	Community Center	Recreational Facility
Forestry	Country Inn	Residential Care Facility
Home Occupation	Dwelling Multi-Family ≤ 4	Restaurant
Residential Care Home	Home Business	Retail Store
	Licensed Child Care Facility	School (Public & Private)

Area, Dimensional, and Coverage Requirements:

	<u>Residential Uses</u>	<u>Non-Residential Uses</u>
Setbacks (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		
Lot depth minimum	200 feet	250 feet
Coverage maximum	25 percent	25 percent
Building height maximum	35 feet	35 feet
<i>no height limit for agricultural uses</i>		

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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. Strip development should be discouraged and its negative impacts minimized, if possible, by techniques such as shared access points, increased landscaping, sign control, and emphasis on pedestrian movement.

Uses**Allowed**

Accessory Apartment Dwelling
 Accessory Use
 Agriculture
 B&B
 Dwelling Single Family
 Dwelling Two Family
 Family Child Care Home
 Forestry
 Home Occupation
 Residential Care Home

Conditional

Agri-tourism
 Animal Hospital
 Auto Service & Repair
 Building Trade/Repair Shop
 Campground
 Communication Structure
 Community Center
 Country Inn
 Dwelling Multi-Family
 Earth/Mineral Extraction
 Licensed Child Care Facility
 Home Business
 Kennel
 Manufacture/Pack/Process

Mixed Use Structure
 Mobile Home Park
 Office Building
 Places of Worship
 Public/Government Building
 Portable Storage Containers
 PUD (all other)
 PUD Residential Only
 Recreational Facility
 Residential Care Facility
 Restaurant
 Retail Store
 School (Public & Private)
 Storage Facility
 Storage Yard
 Warehouse

Area, Dimensional, and Coverage Requirements:

	<u>Residential Uses</u>	<u>Non-Residential Uses</u>
<u>Setbacks</u> (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.

Uses**Allowed**

Accessory Apartment Dwelling
Accessory Use
Agriculture
Dwelling Single Family
Dwelling Two Family
Family Child Care Home
Forestry
Home Occupation
Residential Care Home

Conditional

Agri-tourism
Animal Hospital
Auto Service & Repair
Building Trade/Repair
Shop
Communication Structure
Earth/Mineral Extraction
Licensed Child Care
Facility
Home Business
Kennel

Manufacture/Pack/Process
Mixed Use Structure
Office Building
Portable Storage Containers
Recreational Facility
Residential Care Facility
Retail Store
Solid Waste Facility
Storage Facility
Storage Yard
Warehouse

Area, Dimensional, and Coverage Requirements:

	<u>Residential Uses</u>	<u>Non-Residential Uses</u>
Setbacks (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 approval of 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.
2. In the case of a one or two-family dwelling, buildings existing at the time of adoption of this bylaw (*add adoption date*) 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 nonconforming 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

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Article II 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.

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.

1. Pursuant to 24 VSA 4414 (8), waivers to dimensional requirements of this Zoning Bylaw may be granted by the Development Review Board (DRB) after considering the Waiver Criteria in Section 256(3) below. The burden of proof is on the applicant to demonstrate that the waiver requested meets the Waiver Criteria.
2. A waiver may be granted to any of the dimensional requirements in this Zoning Bylaw.
3. Waiver Criteria. The DRB may grant a waiver(s) to a dimensional requirement(s) after making findings on the following criteria:
 - a. The waiver is helpful or necessary to allow for reasonable use of the property.
 - b. The waiver is the minimum reduction in the dimensional requirement that will enable the reasonable use of the property.
 - c. Any adverse effects of the waiver are mitigated by design, screening, or other remedies.
 - d. The need for a waiver was not created by past decisions of the applicant.
 - e. The proposed project will still conform to the Town Plan.
 - f. 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.
 - g. The proposed project will not have an undue adverse effect on the following:
 - i. Surrounding properties and property values
 - ii. The character and aesthetics of the neighborhood
 - iii. Traffic patterns and circulation
 - iv. Public health, safety, and utility services
 - v. Stormwater management
 - vi. Water and wastewater capacity.

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 III: 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.

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Section 323 Designation of Riparian Areas

Riparian Areas include: 1) lands falling within 500 feet of the Connecticut and West Rivers, and 2) lands falling within 250 feet of the following brooks:

Fall Brook
Stickney Brook

Canoe Brook
Crosby Brook

Salmon Brook
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**USE, AREA, AND SETBACK REQUIREMENTS**

<u>Description</u>	<u>Use & Lot Size</u>	<u>Setback from Normal Mean Watermark*</u>	
		<u>Onsite sewage</u>	<u>Land Development</u>
Connecticut & West Rivers, Brooks	As specified in underlying Zoning District	100 feet	50 feet

*Boathouses, docks and landings, and energy producing facilities shall be exempt from the setback requirements for land development.

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 VI: 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 Areas, 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:

- The lots are conveyed in their preexisting, nonconforming configuration.
- On the effective date of any bylaw, each lot was developed with a water supply and wastewater disposal system.
- At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner.
- 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.

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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 an owner-occupied single-family dwelling. An Accessory Dwelling unit means an efficiency or one-bedroom apartment 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.
 - 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 one or more of the following is involved:

- a. A new accessory structure, constructed after the enactment of these bylaws,
 - b. An increase in the height or floor area of the existing dwelling, or
 - c. An increase in the dimensions of the parking areas.
 - d. The unit is greater than 30 percent and 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))**~~State licensed or registered residential care or group homes shall be considered permitted uses in the RC and Settlement Area districts for not more than eight persons who have a handicap or disability, except that no such home shall be considered a permitted use if it locates within 1,000 feet of another existing or permitted residential care or group home. A residential care home or group home, to be operated under state licensing or registration, serving nine or more who have a handicap or disability as defined in 9 V.S.A. § 4501, shall be reviewed as a multi family dwelling and shall be subject to conditional use and site plan review~~

Section 604 Protection of Home Occupations

This bylaw may not 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

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adverse effect upon the character of the residential area in which the dwelling is located. (from 24 V.S.A. §4412 (4))

Section 605 Home Business

The Development Review Board may authorize, as a conditional use, in any district a home business such as, but not limited to, an antique shop, craft shop or studio, custom service shop, teaching, or similar activities if such use complies with all the requirements of this section:

The home business shall be carried on by members of the family living on the property. Three employees who are not part of the family are permitted.

The home business shall be carried on within the principal or existing accessory structures of their residence.

Exterior displays or signs or exterior storage of materials shall be permitted only if in character with the neighborhood.

Objectionable circumstances such as noise, vibration, smoke, dust, electrical disturbance, odors, heat or glare shall not be permitted.

No traffic shall be generated by such home industry in greater volumes than would normally be expected in the neighborhood.

Parking shall be provided off-street and shall not be located in front yards except for the first two cars

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.

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 Areas District which has its own setback requirements as provided in Section 230, and except along watercourses as provided in Sections 245 and 324.

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1. Setbacks from Public Roads and Private Vehicular Rights-of-way serving three or more properties: 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 and 25 feet shall be added to the front yard minimum requirement.
2. Setbacks from Property Lines other than Roadways: 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 200 square feet of floor area and 12 feet or less in height are allowed within setback areas other than those along roadway 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 four feet in height in the Village District, and six feet in height elsewhere, require a Zoning Permit and are subject to Site Plan Approval by the DRB. [adopted 2008]

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, including decks and above ground hard sided pools, 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.

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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. Motel, Tourist Home, Boarding House: 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.

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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

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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.
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.
5. 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.
6. 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.
7. 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

A "Sign" is any display, device or representation which is designed or used to advertise or call attention to any thing, person, business, activity or place and is visible from any highway or other public right-of-way. Whenever dimensions of a sign are specified they shall include panels and frames and supporting framework excluding the building to which a sign may be attached.

1. On-premise outdoor advertising signs shall be permitted provided the purpose is to advertise products or goods made, manufactured or sold in the Town of Dummerston or to advertise a service or commercial establishment within the Town.
2. On-premise outdoor advertising signs shall be deemed "Land Development" as herein defined, shall require a zoning permit before being erected, constructed or replaced and, **with the exception of 669.1**, must be approved by the Development Review Board under Sections 725-727 of this Bylaw.

Section 666 Off-Premise Signs

1. No person may erect or maintain an off-premise sign except as provided in 10 V.S.A., Chapter 21.
2. "Off-premise Sign" (Official Business Directional Sign) means a sign erected and maintained by the State to indicate to the traveling public the route and the distance to public accommodations, commercial services for the traveling public, and points of scenic, historic, cultural, educational and religious interest.

Section 667 Definition of On-Premise Signs

"On-premise sign" means a sign which directs attention to a business, profession, commodity, service, or entertainment carried on, sold, or offered on the same premises. A sign, display, or device will be considered to be an on-premise sign if it meets the following requirements:

1. The sign must be located on the same premises as the activity or property advertised.
2. The sign must have as its purpose (1) the identification of the activity or its products or services, or (2) the sale or lease of the property on which the sign is located, rather than the purpose of general advertising.

Section 668 Premises Test

1. 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 an on-premise sign directs attention is carried on, sold or offered.
2. Pursuant to 10 V.S.A., Chapter 21, an on-premise 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.

Section 669 Permittable On-Premise Signs

All permittable on-premise signs must meet the "Premises Test" specified in Section 668.

Permitted on-premise signs include and are limited to:

1. One professional or home occupation sign, not exceeding ~~four~~**six** square feet **per side, two sides allowed**, including the panel and the frame.
2. One temporary real estate sign, not exceeding six square feet each, including the panel and the frame.
3. Signs identifying any non-residential use in RC and CI zoning districts:
4. No lot may contain more than one sign, unless the Development Review Board finds that more than one sign is necessary in the conduct of business. Up to two faces of a multi-faced sign constitute a single sign. In no case may the Board authorize in excess of fifty (50) square feet of signing per lot, and when two sides of a sign are used, the area of both shall be summed and included in the total allowed for the lot.
5. Non-Residential signs in all other zoning districts shall not exceed a total of twenty (20) square feet.

Section 670 Signs Not Allowed

No On-premise sign may be erected or maintained along a highway and visible from the highway, 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;

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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 or is illuminated by argon, neon, or similar types of lighting;
5. Is located upon a tree, or painted or drawn upon a rock or other natural feature;
6. Is so located as to be readable primarily from a limited access highway;
7. Is extended more than twenty feet above ground level or attached to the roof of a building; no sign which is part of the main structure of a building may be higher than the eaves of that part and side of the building;
8. 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 part of the main structure of a building.
9. Is not in good repair.

Section 675 Mobile Home Parks

All mobile home parks are subject to the State regulations for mobile home parks (10 V.S.A., Chapter 151) and the Dummerston Mobile Home Park Ordinance. All applications for mobile home parks shall require a permit from the Development Review Board.

In addition to the requirements for Conditional Use approval contained in Section 720, the following general and specific standards must be satisfied before a 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.
5. Mobile home parks are subject to the granting of a permit by the Selectboard and require the payment of an annual fee.

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.

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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.
(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 VII: 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 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 sketch 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 four (4) feet in height or less in the Settlement Area District and six (6) feet in height or less elsewhere, 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 buildings associated with residential uses which are less than 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 of 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

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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

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, except that zoning permits issued as a result of a decision by the Development Review Board shall become effective immediately.

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 (31st) day.

~~Section 705 CERTIFICATE OF OCCUPANCY~~

~~Effective September 1, 2005 (or effective date of this section, if later), an application for a Certificate of Occupancy shall be part of the Zoning Permit application and shall be issued by the Administrator when all necessary approvals and permits have been obtained and when, after inspection, the Administrator determines that all work is being completed in conformance with the permits and associated approvals, including applicable conditions. If the Administrator finds that the Certificate of Occupancy should not be issued, the reasons shall be specified in writing and may result in a notice of violation and/or withdrawal of the zoning permit.~~

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:

- applications for rights-of-way or easements for development lacking frontage
- appeals from any decision, act or failure to act by the Administrative Officer and any associated variance requests
- applications for site plan approval
- applications for conditional use approval
- **applications for land division approval of more than two lots**
- applications for planned unit development
- applications subject to Flood Hazard Area Regulations
- applications subject to the Dummerston Wireless Telecommunications Facilities Ordinance
- applications for waivers

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.

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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

An interested person ~~as defined in § 4465 of the Act~~(**see definitions**), may appeal any decision or act taken by the Administrative Officer by filing a notice of appeal with the Development Review Board.

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 VSA § 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, waivers**, 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 4407(2) 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;

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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 standard 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

The Administrative Officer may issue Zoning Permits for one-family and two-family dwellings, accessory uses thereto, agricultural uses, signs allowed under Section 669.1 of this Bylaw, or one-to-two parcel land subdivision if the division complies with minimum lot size, dimensional, access, water supply and sewage disposal requirements. All other uses and structures require Site Plan approval by the Development Review Board.
~~No zoning permit shall be issued by the Administrative Officer for any use or structure, except for one-family and two-family dwellings, accessory uses thereto, agricultural uses, signs permitted under Section 669 (a) or (b) of this Bylaw, or land subdivision until the Development Review Board grants Site Plan Approval.~~

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,

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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

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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 Zoning Administrator 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 Administrator 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'

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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 VIII: 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: an Accessory Dwelling unit is an efficiency or one-bedroom apartment 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: The property has sufficient wastewater capacity. The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling, and applicable setback, coverage, and parking requirements specified in the bylaws are met.. See Section 603 and 24 V.S.A. § 4412(1)(E).~~

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)*

AGRICULTURE: the cultivation of land or other uses of land for the production of food, fiber, horticultural, orchard, maple syrup, Christmas trees, or forest crops; the raising, boarding, and training of equines, and the raising of livestock; or any combination of the foregoing activities. It also includes the storage, preparation, retail sale, and transportation of agricultural commodities together with associated structures accessory to the cultivation or use of such land [see 10 V.S.A., Ch. 16A, § 374(b)] and:

- (a) the cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; or
- (b) the raising, feeding or management of livestock, poultry, fish or bees; or
- (c) the operation of greenhouses; or
- (d) the production of maple syrup; or
- (e) the on-site storage, preparation and sale of agricultural products principally produced on the farm; or
- (f) the on-site production of fuel or power from agricultural products or wastes produced on the farm; or
- (g) the raising, feeding, or management of four or more equines owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding, training, and the management of equines.

(VT Accepted Agricultural Practice Regulations; Effective Date: April 24, 2006; Section 2: Definitions; 2.05)

AGRI-TOURISM: a use and related structures attracting travelers or visitors to an area or areas that are used primarily for agricultural purposes, including overnight stays, events, festivals, recreation activities, tourism-enhanced direct marketing, education, and farm cafes. This includes activities conducted by a farm operator for the enjoyment and education of the public, to promote the farm's products, and thereby generate additional income.

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 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.

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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 non-profit 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 Country Inn is a lodging establishment serving meals, usually developed from a classic home in a rural or village setting, having a rustic, comfortable ambiance. For this Bylaw, 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)

~~**DUMPSTER:** Residential sized trash container up to 6 cubic yards which can be moved and emptied with trucks or machinery.~~

DWELLING - SINGLE FAMILY: a structure designed and constructed for permanent year-round use by one family. Single Family dwelling includes mobile home, modular home, manufactured home and camp.

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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.

ENCLOSED STORAGE – renamed **STORAGE FACILITY**

EARTH AND MINERAL EXTRACTION: the removal of soil, sand, gravel or other earth resource for sale or transport to another location, except when incidental to 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 as the construction of utilities, drainage ways, and roadways.

FAMILY: one or more persons living, sleeping, cooking and eating on the same premises as a single housekeeping unit, providing that unless all members are related by blood, marriage or adoption, no such single housekeeping unit shall contain more than 5 members. Minor children placed by a State Agency and known as State Wards, domestic servants and farm workers employed on the premises may be housed and be included with the family for the purposes of this section.

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.

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: a small industrial or service type of operation carried out on the premises under the conditions established in Section 605.

HOME OCCUPATION: an accessory use of a minor portion of a dwelling by the residents thereof for an occupation which is customary in a dwelling in a residential area and that does not

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have an undue adverse effect upon the character of the residential area in which the dwelling is located. See Section 604.

INTERESTED PERSON: [from the Planning and Development Act (Title 24 VSA 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 a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building, signs, or other structures, or of any mining, excavation of landfill, and any change in the use of any building or

other structure, or land, or extension of use of 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 to be 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:

- transportable in one or more sections; and
- 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
- 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

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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 construed 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.

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.

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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 V).

PORTABLE STORAGE CONTAINER: a structure, designed for storage of materials or trash, which can be moved and emptied with trucks or machinery. ~~Commonly known as Cargo Containers they are approximately 8'x8½'x20' long.~~

~~**PRIVATE CLUB** — a structure or use by a nonprofit social or civic organization, or by an organization catering exclusively to members and their guests for social, civic, recreational or athletic purposes which are not primarily conducted for gain.~~

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

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.

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.

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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. The path or thoroughfare on which such passage is made.

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

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(was ENCLOSED STORAGE): a structure consisting of at least three(3) sides and a roof for the purpose of storing goods for an indefinite period.

STRUCTURE: anything constructed or erected for occupancy or use, including but not limited to a building, a mobile home, trailer, tower, or in-ground swimming pool, dumpsters and portable storage containers. Structure does not include: retaining walls, fences or brick or stone walls not exceeding four feet in height in the Settlement Area District and six feet in height in any other district; any agricultural fence on an operating farm; poles; mailboxes; dog houses; clotheslines; lamp posts and at-grade decks. Fences or walls exceeding four feet in height in the Settlement Area District and six feet in height elsewhere are considered structures.

~~**SUBDIVISION**—a tract or tracts of land, owned or controlled by a person, which have been partitioned or divided for the purpose of resale into 10 or more lots within a radius of five miles of any point on any lot, and within any continuous period of 10 years after the effective date of this chapter. In determining the number of lots, a lot shall be counted if any portion is within five miles. (10 V.S.A. 6001 (19)).~~

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.

TOURIST HOME: a place where overnight accommodations are offered for transients, usually of short duration.

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TRAILER: a van or closed vehicle usually pulled by a car or truck, and equipped as temporary living quarters, but is without permanent sanitary facilities.

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.